

**CASE No. 12-15737**

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

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MICHAEL E. DAVIS, aka TONY DAVIS, VINCE FERRAGAMO,  
and BILLY JOE DUPREE, on behalf of themselves and all others  
similarly situated,

*Plaintiffs and Appellees,*

v.

ELECTRONIC ARTS, INC.

*Defendant and Appellant.*

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Appeal From The United States District Court,  
Northern District of California, Case No. 10-CV-3328 RS (DMR),  
The Honorable Richard Seeborg

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**SUPPLEMENTAL EXCERPTS OF RECORD**

**VOLUME 1 OF 11**

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17 UNITED STATES DISTRICT COURT  
18 NORTHERN DISTRICT OF CALIFORNIA  
19 SAN FRANCISCO DIVISION

20 MICHAEL E. DAVIS, aka TONY DAVIS,  
21 VINCE FERRAGAMO, and BILLY JOE  
DUPREE, on behalf of themselves and all  
22 others similarly situated,

23 Plaintiffs,

24 vs.

25 ELECTRONIC ARTS, INC.,  
26 Defendant.

CASE NO. 10-cv-3328 RS (DMR)

**DECLARATION OF BRIAN D. HENRI IN  
SUPPORT OF PLAINTIFFS'  
OPPOSITION TO ELECTRONIC ARTS  
INC.'S ANTI-SLAPP MOTION TO  
STRIKE**

Date: January 26, 2012  
Time: 1:30 p.m.  
Judge: The Honorable Richard Seeborg  
Ctmm: 3, 17th Floor



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1 I Brian D. Henri, declare:

2 1. I am an attorney licensed to practice law in the State of California, am admitted in  
3 the Northern District of California, and am a partner at the law firm Thomas Whitelaw LLP,  
4 counsel for plaintiffs Michael E. Davis, Vince Ferragamo, and Billy Joe DuPree in this action.  
5 The facts stated herein are true of my own knowledge, unless otherwise stated, and if called to  
6 testify I could and would testify to those facts.

7 2. Attached hereto as Exhibit 1 is a true and correct copy of the Declaration of Jeremy  
8 Strauser, dated August 7, 2009, and exhibits M and T thereto, filed by EA in *James* (“Jim”),  
9 *Brown v. Electronic Arts, Inc.*, Case No 2:09-cv-01598-DMG-RZ (C.D. Cal). At the time this  
10 Declaration was filed by EA, Mr. Strauser was employed by EA as an “Executive Producer.” I  
11 printed these documents from PACER for the Central District of California from the *Brown* case  
12 at Docket. Nos. 30 and 30-2. For the Court’s convenience, I underlined the text cited or referred  
13 to in Plaintiffs’ Opposition.

14 3. Attached hereto as Exhibit 2 is a true and correct copy of an interview with Jeremy  
15 Strauser, Executive Producer for Madden NFL franchise, posted on the website  
16 [www.armchairempire.com](http://www.armchairempire.com). I printed this interview from the web address  
17 [http://www.armchairempire.com/Interviews/madden-2003-Jeremy -Strauser](http://www.armchairempire.com/Interviews/madden-2003-Jeremy-Strauser), on June 11, 2011.  
18 I underlined the text cited or referred to in Plaintiffs’ Opposition for the Court’s convenience.

19 4. Attached hereto as Exhibit 3 is a true and correct copy of a blog entry entitled  
20 “Welcome to a new season of Madden NFL football,” by Ian Cummings, Creative Director for the  
21 Madden NFL franchise, dated February 7, 2010 which was posted on EA’s website. I printed this  
22 blog entry from EA’s website at the web address  
23 <http://maddennfl.easports.com/blog.action?blogId=superbowlblog> on October 10, 2010. I  
24 underlined the text cited or referred to in Plaintiffs’ Opposition for the Court’s convenience.

25 5. Attached hereto as Exhibit 4 is a true and correct copy of the Brief for Electronic  
26 Arts Inc. as Amicus Curiae Supporting the NFL Respondents in *American Needle, Inc. v. National*  
27 *Football League*, Case No. 08-661 in the Supreme Court of the United States. I underlined the  
28 text cited or referred to in Plaintiffs’ Opposition for the Court’s convenience.



3

1           6.       Attached hereto as Exhibit 5 is a true and correct copy of an interview with Donnie  
2 Moore, whose title at EA is “Rating Czar” for the Madden NFL franchise. I printed this interview  
3 from the website [www.sportsgrid.com](http://www.sportsgrid.com) at the web addresses  
4 [http://www.sportsgrid.com/nfl/madden-ratings-czar-explains-how-he-became-madden-ratings-](http://www.sportsgrid.com/nfl/madden-ratings-czar-explains-how-he-became-madden-ratings-czar-what-the-hell-awareness-is/)  
5 [czar-what-the-hell-awareness-is/](http://www.sportsgrid.com/nfl/madden-ratings-czar-on-best-virtual-athlete-ever-breakout-star-of-madden-11/) and [http://www.sportsgrid.com/nfl/madden-ratings-czar-on-best-](http://www.sportsgrid.com/nfl/madden-ratings-czar-on-best-virtual-athlete-ever-breakout-star-of-madden-11/)  
6 [virtual-athlete-ever-breakout-star-of-madden-11/](http://www.sportsgrid.com/nfl/madden-ratings-czar-on-best-virtual-athlete-ever-breakout-star-of-madden-11/) on December 31, 2011. I underlined the text  
7 cited or referred to in Plaintiffs’ Opposition for the Court’s convenience.

8           7.       Attached hereto as Exhibit 6 is a true and correct copy of an interview with Jeremy  
9 Strauser, EA’s Supervising Producer for Madden NFL 2004, from the website  
10 [www.operationsports.com](http://www.operationsports.com). I printed this interview from the web address  
11 [www.operationsports.com/features/151/madden-nfl-2004-interview/](http://www.operationsports.com/features/151/madden-nfl-2004-interview/) on December 31, 2011. I  
12 underlined the text cited or referred to in Plaintiffs’ Opposition for the Court’s convenience.

13           8.       Attached hereto as Exhibit 7 are true and correct copies of the relevant portions of  
14 “The Official Guide” for Madden NFL 06, Madden NFL 07, and Madden NFL 08. The official  
15 Guides attached hereto bear EA copyright notices. I underlined the text cited or referred to in  
16 Plaintiffs’ Opposition for the Court’s convenience.

17           9.       Attached hereto as Exhibit 8 is a true and correct copy of a printout from EA’s  
18 website that was produced by EA as part of its document production and Production Numbered  
19 EA00002203.

20           10.      Attached hereto as Exhibit 9 is a true and correct printout from the forum on EA’s  
21 website. I printed this from EA’s website [www.ea.com](http://www.ea.com) at the web address  
22 <http://www.forum.ea.com/eaforum/posts/list/91040>, on December 31, 2011. I underlined the text  
23 cited or referred to in Plaintiffs’ Opposition for the Court’s convenience.

24           11.      Attached hereto as Exhibit 10 is a true and correct of the relevant portions of a  
25 printout from EA’s website. I printed this from EA’s website [www.ea.com](http://www.ea.com) at the web address  
26 <http://forum.ea.com/eaforum/posts/list/96443.page> on June 10, 2011. I underlined the text cited or  
27 referred to in Plaintiffs’ Opposition for the Court’s convenience.

28           12.      For Exhibit 11, please see the Sealed Declaration of Brian D. Henri in Support of



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1 Plaintiff's Opposition to EA's Anti-SLAPP motion ("Sealed Henri Decl."), filed concurrently  
2 under seal.

3 13. Attached hereto as Exhibit 12 are true and correct copies of relevant portions of the  
4 Transcript of Proceedings, dated November 16, 2011 from the hearing on Plaintiffs' Second  
5 Motion to Compel before Judge Ryu, in which EA's counsel, Adam Lauridsen, describes the  
6 spreadsheet submitted under seal as Exhibit 11. I underlined the text cited or referred to in  
7 Plaintiffs' Opposition for the Court's convenience.

8 14. Attached hereto as Exhibit 13 are true and correct copies of the relevant portions  
9 of Electronic Arts, Inc.'s Form 10-K (Annual Report), dated March 31, 2011. I printed this  
10 document from EA's website, on January 1, 2012, at this address:  
11 [http://investor.ea.com/sec.cfm?DocType=&DocTypeExclude=&SortOrder=FilingDate%20Descen](http://investor.ea.com/sec.cfm?DocType=&DocTypeExclude=&SortOrder=FilingDate%20Descending&Year=&PageNum=4&FormatFilter=&CIK=)  
12 [ding&Year=&PageNum=4&FormatFilter=&CIK=](http://investor.ea.com/sec.cfm?DocType=&DocTypeExclude=&SortOrder=FilingDate%20Descending&Year=&PageNum=4&FormatFilter=&CIK=) . I underlined the text cited or referred to in  
13 Plaintiffs' Opposition for the Court's convenience.

14 15. For Exhibit 14, please see the Sealed Henri Decl. filed under seal concurrently.

15 16. Attached hereto as Exhibit 15 is a true and correct copy of the Declaration of  
16 Jeffrey Kessler and the License Agreement between Electronic Arts Inc. and the National Football  
17 Museum, Inc (dba The Pro Football Hall of Fame) and National Football League Players  
18 Incorporated, dated April 20, 2006 (which is attached to Mr. Kessler's declaration as Exhibit 4).  
19 Mr. Kessler's Declaration and the License Agreement are publicly available through Pacer in  
20 *Parrish v. National Football League Players Association*, Case No. 3:07-cv-00943-WHA (N.D.  
21 Cal.). I printed Mr. Kessler's Declaration and the License Agreement from Pacer for the Northern  
22 District of California in the *Parish* case at Docket Nos. 385 and 385-4 respectively. I bracketed  
23 and underlined the text cited or referred to in Plaintiffs' Opposition for the Court's convenience.

24 17. Attached hereto as Exhibit 16 is a true and correct copy of the Declaration of  
25 Jeffrey Kessler and Addendum to the License Agreement, dated March 1, 1998, between  
26 Electronic Arts Inc. and the National Football League Players Incorporated, in which EA licensed  
27 certain identified retired players' likenesses for its Madden video game. Mr. Kessler's Declaration  
28 and the Addendum are publicly available through Pacer in *Parrish v. National Football League*



5

1 *Players Association*, Case No. 3:07-cv-00943-WHA (N.D. Cal.). I printed Mr. Kessler's  
 2 Declaration and the License Agreement from Pacer for the Northern District of California in the  
 3 Parish case at Docket Nos. 385, and 385-2 respectively. I underlined the text cited or referred to  
 4 in Plaintiffs' Opposition for the Court's convenience.

5 18. Attached hereto as Exhibit 17 is a true and correct copy of an article from the  
 6 website [www.chicagobreakingsports.com](http://www.chicagobreakingsports.com). I printed this article from the web addresses  
 7 <http://archive.chicagobreakingsports.com/2011/03/soldier-field-to-be-featured-in-madden-12.html>  
 8 on January 1, 2012. I underlined the text cited or referred to in Plaintiffs' Opposition for the  
 9 Court's convenience.

10 19. Attached hereto as Exhibit 18 is a true and correct copy of a letter from Lashun  
 11 Lawson, Assistant Vice President of Multimedia at Players Inc. to Jeremy Strauser of EA, dated  
 12 May 31, 2001 that was produced by EA with Production Number EA00000128. I underlined the  
 13 text cited or referred to in Plaintiffs' Opposition for the Court's convenience.

14 20. For Exhibit 19, please see the Sealed Henri Decl. filed concurrently under seal.

15 21. For Exhibit 20, please see the Sealed Henri Decl. filed concurrently under seal.

16 22. Attached hereto as Exhibit 21 is a true and correct copy of Defendant Electronic  
 17 Arts Inc.'s Third Amended Responses [sic] to Plaintiffs' Interrogatory No. 8, dated December 8,  
 18 2011. I underlined the text cited or referred to in Plaintiffs' Opposition for the Court's  
 19 convenience.

20 23. For Exhibit 22, please see the Sealed Henri Decl. filed concurrently under seal.

21 24. Attached hereto as Exhibit 23 are true and correct copies of the relevant portions of  
 22 the testimony of Joel Linzner, EA's Director of Business Affairs, from the Trial Transcript in  
 23 *Parrish et al. v. National Football League Players Association*, Case No. 3:07-cv-00943-WHA  
 24 (N.D. Cal.). I printed the attached Trial Transcript excerpts from Pacer at Docket No. 522 for  
 25 *Parrish*, Case No. 3:07-cv-00943-WHA (N.D. Cal.). I underlined the text cited or referred to in  
 26 Plaintiffs' Opposition for the Court's convenience.

27 25. Attached hereto as Exhibit 24 is true and correct copy of the Legal Notices posted  
 28 on EA's website [www.ea.com](http://www.ea.com) for its Tiger Woods video games. I printed the "Legal Notices"



1 from the web address [www.ea.com/1/legal-notices](http://www.ea.com/1/legal-notices), on December 30, 2011. I underlined the text  
2 cited or referred to in Plaintiffs' Opposition for the Court's convenience.

3 26. Attached hereto as Exhibit 25 is true and correct copy of the Legal Notices on EA's  
4 website for the video game Tiger Woods PGA Tour Online. I printed the "Legal Notices" from  
5 the web address [www.tigerwoodsonline.ea.com/credits](http://www.tigerwoodsonline.ea.com/credits), on December 30, 2011. I underlined the  
6 text cited or referred to in Plaintiffs' Opposition for the Court's convenience.

7 27. Attached hereto as Exhibit 26 is a true and correct copy of a printout from the  
8 website [www.Amazon.com](http://www.Amazon.com) for the EA Sports 08 Collection. I printed this document from the  
9 web address [http://www.amazon.com/EA-Sports-08-Collection-](http://www.amazon.com/EA-Sports-08-Collection-Pc/dp/B000B7PW6E/ref=sr_1_1?ie=UTF8&qid=1325315703&sr=8-1)  
10 [Pc/dp/B000B7PW6E/ref=sr\\_1\\_1?ie=UTF8&qid=1325315703&sr=8-1](http://www.amazon.com/EA-Sports-08-Collection-Pc/dp/B000B7PW6E/ref=sr_1_1?ie=UTF8&qid=1325315703&sr=8-1) on January 1, 2012. I  
11 underlined the text cited or referred to in Plaintiffs' Opposition for the Court's convenience.

12 28. Attached hereto as Exhibit 27 is are true and correct copies of the Declaration of  
13 Jill Hamburger In Support of Defendant Electronic Arts Inc.'s Opposition To Plaintiff's Motion  
14 for Class Certification in the *Pecover v. Electronic Arts Inc.*, Case No C 08-02820 VRW (N.D.  
15 Cal.), and the relevant portions of the Expert Report [of Jill Hamburger] In Support of EA's  
16 Opposition to Class Certification, dated February 19, 2010 and attached as Exhibit 1 to Ms.  
17 Hamburger's Declaration. I printed these documents from PACER for the Northern District of  
18 California from the *Pecover* matter at Docket Nos. 108 and 108-1. I underlined the text cited or  
19 referred to in Plaintiffs' Opposition for the Court's convenience.

20 29. Attached hereto as Exhibit 28 are true and correct copies of relevant portions of the  
21 Declaration of Stuart M. Paynter In Support of Plaintiffs' Motion to Exclude the "Expert" Opinion  
22 of Jill Hamburger and Strike Section II.B. of Defendant's Response to Plaintiffs' Motion for Class  
23 Certification, dated April 1, 2010, and the relevant portions of Exhibit 1 thereto (deposition  
24 transcript of Jill Hamburger), from *Pecover v. EA*, Case No. 08-02820 VRW (N.D. Cal.). I  
25 printed these documents from Pacer for the Northern District of California from the *Pecover* case  
26 at Docket Nos. 131 and 131-1. I underlined the text cited or referred to in Plaintiffs' Opposition  
27 for the Court's convenience.

28 30. Attached hereto as Exhibit 29 are true and correct copies of relevant portions of



Electronic Arts Inc.'s Reply in Support of its Motion to Dismiss the Complaint Pursuant to Fed. R. Civ. P. 12(b)(6), dated September 18, 2009, in *Keller v. Electronic Arts Inc.*, Case No. CV-09-1967-CW (N.D. Cal.). I printed this document from Pacer for the Northern District of California from the *Keller* case at Docket No. 87. I underlined the text cited or referred to in Plaintiffs' Opposition for the Court's convenience.

31. On January 16, 2011 EA was still selling its Madden NFL 08 video game on its website [www.ea.com](http://www.ea.com). For example, EA was offering for sale its Madden NFL 08 PC edition for download for \$9.95. Attached hereto as Exhibit 30 is a true and correct copy of a printout from EA's website showing its Madden NFL 08 video game available for purchase for \$9.95. I printed this screenshot from EA website from the web address <http://www.ea.com/games/madden-nfl-08> on January 16, 2011. I underlined the text cited or referred to in Plaintiffs' Opposition for the Court's convenience.

32. Attached hereto as Exhibit 31 is true and correct copy of the Legal Notices posted on EA's website [www.ea.com](http://www.ea.com) for its Madden NFL video games. I printed the "Legal Notices" from the web address [www.ea.com/1/legal-notices](http://www.ea.com/1/legal-notices), on January 2, 2012. I underlined the text cited or referred to in Plaintiffs' Opposition for the Court's convenience.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on January 5, 2011, at San Francisco, California.

/s/ Brian D. Henri  
Brian D. Henri



# EXHIBIT 1

EXHIBIT 1

SER 8



DECLARATION OF JEREMY STRAUER

I, Jeremy Strauser, declare:

1. I am not a party to this action, and am over the age of 18 years. Unless expressly stated otherwise, I have personal knowledge of the information set forth in this declaration, and, if called as a witness, I could and would competently testify to the facts set forth below.

2. I am employed by defendant Electronic Arts Inc. ("EA") as an Executive Producer. I have held this position since 2007. EA, which was founded in 1982, is one of the world's leading interactive entertainment software companies. It develops, publishes, and distributes interactive software worldwide for video game systems, personal computers, cellular handsets, and the Internet. In my capacity as Executive Producer, I am responsible for the overall development of *Madden NFL*, which EA publishes annually, and am familiar with the game's content.

3. *Madden NFL* is a video game series that allows users to simulate an NFL football game. The first edition of the game, titled *John Madden Football*, was published in or around 1987. In 1993, the game's title was changed to *Madden NFL*, and it is now available for play on numerous platforms, including PlayStation 2, PlayStation 3, PSP, Wii, and Xbox 360.

4. On April 22, 2009, EA lodged with this Court as Exhibits A-H, respectively, true and correct copies of *Madden NFL '02*, *Madden NFL '03*, *Madden NFL '04*, *Madden NFL '05*, *Madden NFL '06*, *Madden NFL '07*, *Madden NFL '08*, and *Madden NFL '09*, along with a PlayStation 2 console and two controllers. I have played each of these annual editions of the game.

5. As a review of the editions of *Madden NFL* lodged with the Court demonstrates, the video games are constructed from an array of graphics, sound, and information. Once a user chooses two NFL teams to compete against one another, the video game assigns a stadium for the match-up and populates it with players,

STRAUSER DECLARATION



1 coaches, referees, fans, and cheerleaders – all designed and rendered by EA's graphic  
2 artists. The game simulates NFL football using these high-definition graphics, which  
3 also include lighting effects, and weather. The game offers users numerous audio  
4 features, as well, such as a soundtrack, action-specific, network-television-style,  
5 play-by-play commentary, and realistic original game sounds, such as the crunch of  
6 players' pads, the quarterback's audible play-calling, and the roar of the crowd.

7 6. *Madden NFL* allows users to customize their game-play experience by  
8 creating and managing NFL franchises, drafting players to include on their rosters,  
9 and assembling offensive and defensive playbooks, among other things. The game  
10 contains special features, like the Madden IQ System, which enables users to adjust  
11 the virtual players' levels of performance so that users of different skill levels may  
12 compete against one another, and the Superstar Mode, which allows users to direct a  
13 rookie athlete's career. The choices that a user makes concerning the virtual athlete's  
14 career affect that athlete's game performance.

15 7. Each edition of the *Madden NFL* series offers users the option to select  
16 among all 32 current NFL teams, with approximately 1,500 virtual players. In  
17 editions of the game for some platforms, users may choose to play not only that  
18 season's NFL teams, but also historical teams, including the 1965 Cleveland Browns  
19 and All Browns teams. These editions of the game include approximately 175  
20 additional teams, each of which fields approximately 50 virtual players. Thus, the  
21 total number of virtual NFL players in each edition of *Madden NFL* that is at issue in  
22 this lawsuit is approximately 10,250. The virtual players on the current NFL teams  
23 depicted in the *Madden NFL* series are referred to by the name of the real-life  
24 players, and they wear the same uniform number as the real-life players. In contrast,  
25 the virtual players on the historical teams are referred to by their position and  
26 number, such as HB #37.

27 8. The outcome of the game simulation depends in large part on the skill of  
28 the users, who call plays on offense and defense, and manipulate controllers to

7  
STRAUSER DECLARATION

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1 control the actions of the virtual players on the field. Virtual players' personal  
2 characteristics (such as height, weight, athletic ability, and experience) and other  
3 game variables (such as crowd noise and play-calling) also influence a team's  
4 performance. Users may alter the abilities and appearances of the virtual players  
5 already assigned to teams, or may create custom virtual players from scratch for use  
6 in the game simulations. Those user decisions also influence the outcome of the  
7 game simulation.

8 9. Jim Brown's name is not used in any way in any of these editions of  
9 *Madden NFL*; it does not appear visually and is not in the commentary or soundtrack.

10 10. EA also has attached to this Request "screen grab" images of the virtual  
11 running backs from the 1965 Cleveland Browns and All Browns teams found on  
12 *Madden NFL '06* through *Madden NFL '09*.

13 a. True and correct copies of those "screen grab" images from  
14 *Madden NFL '06* are attached as **Exhibit I**;

15 b. True and correct copies of those "screen grab" images from  
16 *Madden NFL '07* are attached as **Exhibit J**;

17 c. True and correct copies of those "screen grab" images from  
18 *Madden NFL '08* are attached as **Exhibit K**; and

19 d. True and correct copies of those "screen grab" images from  
20 *Madden NFL '09* are attached as **Exhibit L**.

21 11. EA licenses from the NFL the right to use its teams' names, logos, and  
22 stadiums in the *Madden NFL* series. That license remains in effect.

23 12. Every year since 1989, EA has published an annual edition of the game,  
24 and has registered its copyright in these new editions. EA has published its annual  
25 editions of *Madden NFL* no later than August 31 of the year preceding its release. In  
26 other words, *Madden NFL '02* was published in or around August 2001, and *Madden*  
27 *NFL '09* was published in or around July 2008.  
28

STRAUSER DECLARATION



13. *Madden NFL '02* first was published in or around August 2001. Attached to this declaration as **Exhibit M** is a true and correct copy of the United States Copyright Office's Certificate of Registration for *Madden NFL '02* as released for the PlayStation platform, which states that *Madden NFL '02* was released in or around August 2001.

14. *Madden NFL '03* first was published in or around August 2002. Attached to this declaration collectively as **Exhibit N** are true and correct copies of the United States Copyright Office's Certificates of Registration for *Madden NFL '03* as released for the Nintendo GameCube, Xbox, PlayStation, and PlayStation 2 platforms, which state that *Madden NFL '03* was released in or around August 2002.

15. *Madden NFL '04* first was published in or around August 2003. Attached to this declaration collectively as **Exhibit O** are true and correct copies of the United States Copyright Office's Certificates of Registration for *Madden NFL '04* as released for the PlayStation, PlayStation 2, Game Boy Advance, Nintendo GameCube, Windows CD-ROM, and Xbox platforms, which state that *Madden NFL '04* was released in or around August 2003.

16. *Madden NFL '05* first was published in or around August 2004. Attached to this declaration collectively as **Exhibit P** are true and correct copies of the United States Copyright Office's Certificates of Registration for *Madden NFL '05* as released for the PlayStation 2 and Nintendo GameCube platforms, which state that *Madden NFL '05* was released in or around August 2004.

17. *Madden NFL '09* first was published in or around July 2008. Attached to this declaration collectively as **Exhibit T** are true and correct copies of the United States Copyright Office's Certificates of Registration for *Madden NFL '09* as released for the NDS, Wii, PlayStation Portable, PlayStation 2, PlayStation 3, Xbox and Xbox 360 platforms, which state that *Madden NFL '09* was release in or around July 2008.

STRAUSER DECLARATION

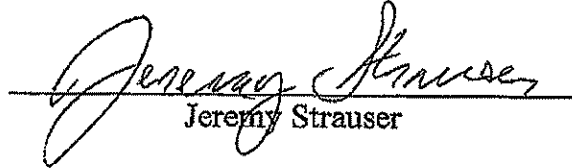
8A

DAVIS WRIGHT TREMAINE LLP  
865 S. FIGUEROA ST, SUITE 2400  
LOS ANGELES, CALIFORNIA 90017-2366  
(213) 633-6800  
Fax: (213) 633-6899

SER 12



1 This Declaration was executed on August 7, 2009, in Orlando, Florida. I  
2 declare under penalty of perjury under the laws of the United States of America and  
3 the State of Florida that the foregoing is true and correct.

4  
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6 Jeremy Strauser  
7  
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8B

STRAUSER DECLARATION

DAVIS WRIGHT TREMAINE LLP  
865 S. FIGUEROA ST. SUITE 2400  
LOS ANGELES, CALIFORNIA 90017-2566  
(213) 633-6800  
Fax: (213) 633-6809



# EXHIBIT N



# CERTIFICATE OF REGISTRATION

## FORM PA

For a Work of the Performing Arts

PA 1-116-679



EFFECTIVE DATE OF REGISTRATION

 8 16 02  
 Month Day Year


OFFICIAL SEAL

This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Marybeth Peters*  
 REGISTER OF COPYRIGHTS  
 United States of America

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

TITLE OF THIS WORK ▼

Madden NFL 2003 (for Nintendo GameCube)

PREVIOUS OR ALTERNATIVE TITLES ▼

NATURE OF THIS WORK ▼ See Instructions

Multimedia CD-ROM

NAME OF AUTHOR ▼

Electronic Arts Inc.

DATES OF BIRTH AND DEATH

Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"?

☒ Yes  
☐ No

AUTHOR'S NATIONALITY OR DOMICILE

Name of Country

 OR { Citizen of ► USA  
 Domiciled in ►

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☒ NoPseudonymous? ☐ Yes ☒ No

If the answer to either of these questions is "Yes," see detailed instructions.

 NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ▼  
 Audiovisual material and computer program.

NAME OF AUTHOR ▼

Budcat Creations LLC

DATES OF BIRTH AND DEATH

Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"?

☒ Yes  
☐ No

AUTHOR'S NATIONALITY OR DOMICILE

Name of Country

 OR { Citizen of ► USA  
 Domiciled in ►

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☒ NoPseudonymous? ☐ Yes ☒ No

If the answer to either of these questions is "Yes," see detailed instructions.

 NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ▼  
 Audiovisual material and computer program.

NAME OF AUTHOR ▼

DATES OF BIRTH AND DEATH

Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"?

☐ Yes  
☒ No

AUTHOR'S NATIONALITY OR DOMICILE

Name of Country

 OR { Citizen of ►  
 Domiciled in ►

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☒ NoPseudonymous? ☐ Yes ☒ No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ▼

YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED

2002

This information must be given in all cases.

DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK

Complete this information ONLY if this work has been published.

Month ► August

Day ► 12

Year ► 2002

NATION

USA

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼

 Electronic Arts Inc.  
 209 Redwood Shores Pkwy  
 Redwood City CA 94065

TRANSFER If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

By written agreement between Electronic Arts and Budcat Creations LLC.

MORE ON BACK ►

 • Complete all applicable spaces (numbers 5-9) on the reverse side of this page.  
 • See detailed instructions.

• Sign the form at the bottom.

DO NOT WRITE HERE

Page 1 of 1 pages



EXAMINED BY

GJ

FORM PA

CHECKED BY

☐ CORRESPONDENCE

Yes

FOR  
COPYRIGHT  
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USE  
ONLY

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

☒ Yes ☐ No If your answer is "Yes," why is another registration being sought? (Check appropriate box.) ☐ If your answer is "no," go to space 7.a. ☐ This is the first published edition of a work previously registered in unpublished form.b. ☐ This is the first application submitted by this author as copyright claimant.c. ☒ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give: Previous Registration Number ▼

PA 1-060-379

Year of Registration ▼

2001

DERIVATIVE WORK OR COMPILATION Complete both space 6a and 6b for a derivative work; complete only 6b for a compilation.  
Preexisting Material Identify any preexisting work or works that this work is based on or incorporates. ▼

Pre-existing code &amp; audiovisual material.

a

6

See instructions  
before completing  
this space.

b

Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. ▼

New code &amp; audiovisual material.

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.  
Name ▼ Account Number ▼

ELECTRONIC ARTS INC.

DA 075612

a

7

b

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt./City/State/ZIP ▼

Lisa Tensfeldt

Electronic Arts Inc.

209 Redwood Shores Parkway

Redwood City CA 94065

Area code and daytime telephone number ▶ ( 650 ) 628-7545

Fax number ▶ ( 650 ) 628-1422

Email ▶ ltensfeldt@ea.com

CERTIFICATION\* I, the undersigned, hereby certify that I am the

Check only one ▶

☐ author☐ other copyright claimant☐ owner of exclusive right(s)☒ authorized agent of copyright claimant.

Name of author or other copyright claimant, or owner of exclusive right(s) ▲

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

8

Typed or printed name and date ▼ If this application gives a date of publication in space 3, do not sign and submit it before that date.

Lisa Tensfeldt

Date - 8/14/02 8/15/02

Handwritten signature (X) ▼

x

Lisa Tensfeldt

Certificate  
will be  
mailed in  
window  
envelope  
to this  
address:

Name ▼

Electronic Arts Inc. / Attn: Lisa Tensfeldt

Number/Street/Apt. ▼

209 Redwood Shores Parkway

City/State/ZIP ▼

Redwood City CA 94065

## YOU MUST

• Complete all necessary spaces

• Sign your application in space 8

## SEND ALL 3 ELEMENTS

IN THE SAME PACKAGE

1. Application form

2. Non-refundable filing fee in check or money

order payable to Register of Copyrights

3. Deposit material

## MAIL TO

Library of Congress

Copyright Office

101 Independence Avenue, S.E.

Washington, D.C. 20558-6000

As of July 1, 1999,  
the filing fee for  
Form PA is \$30.

9

\*17 U.S.C. § 605(a): Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.  
June 1999—200,000  
WEB REV: June 1999

PRINTED ON RECYCLED PAPER

U.S. GOVERNMENT PRINTING OFFICE: 1999-454-878/60



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*Marybeth Peters*  
 REGISTER OF COPYRIGHTS  
 United States of America

**FORM PA**For a Work of the Performing Arts  
UNITED STATES COPYRIGHT OFFICE

PA 1-112-607



EFFECTIVE DATE OF REGISTRATION

Month 9 Day 9 Year 02

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

**TITLE OF THIS WORK ▼**Madden NFL 2003 (for the Xbox video game system)**PREVIOUS OR ALTERNATIVE TITLES ▼****NATURE OF THIS WORK ▼** See InstructionsMultimedia CD-ROM**NAME OF AUTHOR ▼**Electronic Arts Inc.**DATES OF BIRTH AND DEATH**

Year Born ▼ Year Died ▼

Was this contribution to the work a  
"work made for hire"? ☒ Yes ☐ No**AUTHOR'S NATIONALITY OR DOMICILE**

Name of Country

OR Citizen of USAOR Domiciled in USA**WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK**Anonymous? ☐ Yes ☒ NoPseudonymous? ☐ Yes ☒ No

If the answer to either of these questions is "Yes," see detailed instructions

**NATURE OF AUTHORSHIP** Briefly describe nature of material created by this author in which copyright is claimed. ▼Audiovisual material and computer program.**NAME OF AUTHOR ▼****DATES OF BIRTH AND DEATH**

Year Born ▼ Year Died ▼

Was this contribution to the work a  
"work made for hire"? ☐ Yes ☐ No**AUTHOR'S NATIONALITY OR DOMICILE**

Name of Country

OR Citizen of USAOR Domiciled in USA**WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK**Anonymous? ☐ Yes ☐ NoPseudonymous? ☐ Yes ☐ No

If the answer to either of these questions is "Yes," see detailed instructions

**NATURE OF AUTHORSHIP** Briefly describe nature of material created by this author in which copyright is claimed. ▼**NAME OF AUTHOR ▼****DATES OF BIRTH AND DEATH**

Year Born ▼ Year Died ▼

Was this contribution to the work a  
"work made for hire"? ☐ Yes ☐ No**AUTHOR'S NATIONALITY OR DOMICILE**

Name of Country

OR Citizen of USAOR Domiciled in USA**WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK**Anonymous? ☐ Yes ☐ NoPseudonymous? ☐ Yes ☐ No

If the answer to either of these questions is "Yes," see detailed instructions

**NATURE OF AUTHORSHIP** Briefly describe nature of material created by this author in which copyright is claimed. ▼**YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED**2002 Year**DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK**Month August Day 12 Year 2002NATION USA**COPYRIGHT CLAIMANT(S)** Name and address must be given even if the claimant is the same as the author given in space 2. ▼

Electronic Arts Inc.  
209 Redwood Shores Pkwy  
Redwood City CA 94065

**TRANSFER** If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

APPLICATION RECEIVED

SEP 09 2002

ONE DEPOSIT RECEIVED

SEP 09 2002

TWO DEPOSITS RECEIVED

FUNDS RECEIVED

**MORE ON BACK ▼**

- Complete all applicable spaces (numbers 5-9) on the reverse side of this page
- See detailed instructions
- Sign the form at line 8

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Page 1 of 2 pages



EXAMINED BY NLB

FORM PA

CHECKED BY

☐ CORRESPONDENCE

Yes

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USE  
ONLY

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

☒ Yes ☐ No If your answer is "Yes," why is another registration being sought? (Check appropriate box) ☐ If your answer is "no," go to space 7a. ☐ This is the first published edition of a work previously registered in unpublished form.b. ☐ This is the first application submitted by this author as copyright claimant.c. ☒ This is a changed version of the work, as shown by space 6 on this applicationIf your answer is "Yes," give: Previous Registration Number ☐

PA 1-060-378

Year of Registration ☐

2001

DERIVATIVE WORK OR COMPILATION Complete both space 6a and 6b for a derivative work; complete only 6b for a compilation.

Preexisting Material Identify any preexisting work or works that this work is based on or incorporates ☐

Pre-existing code &amp; audiovisual material owned by claimant (Madden NFL 2002, Xbox)

Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. ☐

New code &amp; audiovisual material.

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.

Name ☐Account Number ☐

ELECTRONIC ARTS INC.

DA 075612

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/ZIP ☐

Lisa Tensfeldt

Electronic Arts Inc.

209 Redwood Shores Parkway

Redwood City CA 94065

Area code and daytime telephone number ☐ ( 650 ) 628-7545Fax number ☐ ( 650 ) 628-1422Email ☐ ltensfeldt@ea.com

CERTIFICATION\* I, the undersigned, hereby certify that I am the

Check only one ☐☐ author☐ other copyright claimant☐ owner of exclusive right(s)☒ authorized agent of copyright claimant.Name of author or other copyright claimant, or owner of exclusive right(s) ☐

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Typed or printed name and date ☐ If this application gives a date of publication in space 3, do not sign and submit it before that date.

Lisa Tensfeldt

Date ☐ 9/5/02Handwritten signature (X) ☐Certificate  
will be  
mailed in  
window  
envelopes  
to this  
address:Name ☐

Electronic Arts Inc. / Attn: Lisa Tensfeldt

Number/Street/Apt ☐

209 Redwood Shores Parkway

City/State/ZIP ☐

Redwood City CA 94065

## YOU MUST:

- Complete all necessary spaces
- Sign your application in space 8

SEND ALL 3 ELEMENTS  
IN THE SAME PACKAGE:

1. Application form
2. Nonrefundable filing fee in check or money order payable to Register of Copyrights
3. Deposit material

## MAIL TO:

Library of Congress  
Copyright Office  
101 Independence Avenue, S.E.  
Washington, D.C. 20559-6000As of July 1, 1999,  
the filing fee for  
Form PA is \$20.

\*17 U.S.C. § 506(a) Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.

June 1999-200,000  
WEB REV. June 1999

PRINTED ON RECYCLED PAPER

U.S. GOVERNMENT PRINTING OFFICE: 1999-454-879/68



Case 2:09-cv-01598-DMG-RZ Document 30-2 Filed 08/07/09 (Page 9 of 65 Page ID #:506)

# CERTIFICATE OF REGISTRATION



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Marybeth Peters*  
REGISTER OF COPYRIGHTS  
United States of America

**FORM PA**  
For a Work of the Performing Arts  
UNITED STATES COPYRIGHT OFFICE

PA 1-117-213



PA 1-117-213

EFFECTIVE DATE OF REGISTRATION

Month 10 Day 2 Year 02

DO NOT WRITE ABOVE THIS LINE, IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

**TITLE OF THIS WORK**

Madden NFL 2003 (for the PlayStation console)

**PREVIOUS OR ALTERNATIVE TITLES**

**NATURE OF THIS WORK** See instructions

Multimedia CD-ROM

**NAME OF AUTHOR**

Electronic Arts Inc.

**DATES OF BIRTH AND DEATH**

Year Born

Year Died

Was this contribution to the work a "work made for hire"?

☒ Yes

☐ No

**AUTHOR'S NATIONALITY OR DOMICILE**

Name of Country

OR Citizen of USA

Domiciled in

**WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK**

Anonymous?

☐ Yes

☒ No

Pseudonymous?

☐ Yes

☒ No

If the answer to either of these questions is "Yes," see detailed instructions.

**NATURE OF AUTHORSHIP** Briefly describe nature of material created by this author in which copyright is claimed.

Audiovisual material and computer program.

**NAME OF AUTHOR**

Budcat Creations, LLC.

**DATES OF BIRTH AND DEATH**

Year Born

Year Died

Was this contribution to the work a "work made for hire"?

☒ Yes

☐ No

**AUTHOR'S NATIONALITY OR DOMICILE**

Name of Country

OR Citizen of USA

Domiciled in

**WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK**

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Pseudonymous?

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Audiovisual material and computer program.

**NAME OF AUTHOR**

**DATES OF BIRTH AND DEATH**

Year Born

Year Died

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Name of Country

OR Citizen of

Domiciled in

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Pseudonymous?

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☐ No

If the answer to either of these questions is "Yes," see detailed instructions.

**NATURE OF AUTHORSHIP** Briefly describe nature of material created by this author in which copyright is claimed.

**YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED**

2002

Year in all cases.

**DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK**

Complete this information ONLY if this work has been published.

Month August Day 12 Year 2002

USA

Nation

**COPYRIGHT CLAIMANT(S)** Name and address must be given even if the claimant is the same as the author given in space 2.

Electronic Arts Inc.  
209 Redwood Shores Pkwy  
Redwood City CA 94065

**TRANSFER** If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright.

By written agreement between Electronic Arts Inc. and Budcat Creations, LLC.

APPLICATION RECEIVED  
OCT 02 2002

ONE DEPOSIT RECEIVED

OCT 02 2002

TWO DEPOSITS RECEIVED

FUNDS RECEIVED

**MORE ON BACK** • Complete all applicable spaces (numbers 5-9) on the reverse side of this page.  
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Page 1 of 2 pages



EXAMINED BY

FORM PA

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☐ CORRESPONDENCE

Yes

FOR  
COPYRIGHT  
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USE  
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PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

☒ Yes ☐ No If your answer is "Yes," why is another registration being sought? (Check appropriate box.) ☐ If your answer is "no," go to space 7.a. ☐ This is the first published edition of a work previously registered in unpublished form.b. ☐ This is the first application submitted by this author as copyright claimant.c. ☒ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give: Previous Registration Number ▼

PA 1-038-201

Year of Registration ▼

2001

DERIVATIVE WORK OR COMPILATION Complete both space 8a and 8b for a derivative work; complete only 8b for a compilation.

Preexisting Material Identify any preexisting work or works that this work is based on or incorporates. ▼

Pre-existing code &amp; audiovisual material owned by claimant (Madden NFL 2002, PlayStation)

Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. ▼

New code &amp; audiovisual material.

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.

Name ▼

Account Number ▼

ELECTRONIC ARTS INC.

DA 075612

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/ZIP ▼

Lisa Tensfeldt

Electronic Arts Inc.

209 Redwood Shores Parkway

Redwood City CA 94065

Area code and daytime telephone number ▶ ( 650 ) 628-7545

Fax number ▶ ( 650 ) 628-1422

Email ▶ ltensfeldt@ea.com

CERTIFICATION\* I, the undersigned, hereby certify that I am the

Check only one ▶

☐ author☐ other copyright claimant☐ owner of exclusive right(s)☒ authorized agent of copyright claimant.

Name of author or other copyright claimant, or owner of exclusive right(s) ▲

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Typed or printed name and date ▼ If this application gives a date of publication in space 3, do not sign and submit it before that date.

Lisa Tensfeldt

Date ▶ 8/30/02

Handwritten signature (X) ▼

x

Certificate  
will be  
mailed in  
window  
envelope  
to this  
address:

Name ▼

Electronic Arts Inc. / Attn: Lisa Tensfeldt

Number/Street/Apt ▼

209 Redwood Shores Parkway

City/State/ZIP ▼

Redwood City CA 94065

## YOU MUST:

- Complete all necessary spaces
- Sign your application in space 8

SEND ALL 3 ELEMENTS  
IN THE SAME PACKAGE

1. Application form
2. Nonrefundable filing fee in check or money order payable to Register of Copyrights
3. Deposit material

MAIL TO  
Library of Congress  
Copyright Office  
101 Independence Avenue, S.E.  
Washington, D.C. 20559-6000As of July 1, 1999,  
the filing fee for  
Form PA is \$30.

\*17 U.S.C. § 506(e): Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 408, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.



**CERTIFICATE OF REGISTRATION**

#508

**FORM PA**

For a Work of the Performing Arts

UN-  
REC

PA 1-117-223

\*P40001117223\*  
PAU

EFFECTIVE DATE OF REGISTRATION

10 4 '02  
Month Day Year

OFFICIAL SEAL

This Certificate Issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Margbeth Peters*REGISTER OF COPYRIGHTS  
United States of America

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

## TITLE OF THIS WORK

Madden NFL 2003 (for the PlayStation 2 computer entertainment system)

## PREVIOUS OR ALTERNATIVE TITLES

## NATURE OF THIS WORK See instructions

Multimedia CD-ROM

## NAME OF AUTHOR

Electronic Arts Inc.

## DATES OF BIRTH AND DEATH

Year Born

Year Died

Was this contribution to the work a

"work made for hire"?

☒ Yes☐ No

## AUTHOR'S NATIONALITY OR DOMICILE

Name of Country

OR Citizen of USA

OR Domiciled in

## WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous?

☐ Yes☒ No

Pseudonymous?

☐ Yes☒ No

If the answer to either of these questions is "Yes," see detailed instructions.

## NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed.

Audiovisual material and computer program.

## NAME OF AUTHOR

## DATES OF BIRTH AND DEATH

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Redwood City CA 94065

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## APPLICATION RECEIVED

OCT 04 2002

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#509

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☒ Yes ☐ No If your answer is "Yes," why is another registration being sought? (Check appropriate box.) ☐ If your answer is "no," go to space 7.a. ☐ This is the first published edition of a work previously registered in unpublished form.b. ☐ This is the first application submitted by this author as copyright claimant.c. ☒ This is a changed version of the work, as shown by space 6 on this application.If your answer is "Yes," give: Previous Registration Number ☐

PA 1-038-252

Year of Registration ☐

2001

DERIVATIVE WORK OR COMPILATION Complete both space 6a and 6b for a derivative work; complete only 6b for a compilation.  
Preexisting Material Identify any preexisting work or works that this work is based on or incorporates.

Pre-existing code &amp; audiovisual material owned by claimant (Madden NFL 2002, PlayStation 2)

Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed.

New code &amp; audiovisual material.

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.

Name ☐Account Number ☐

ELECTRONIC ARTS INC.

DA 075612

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/ZIP ☐Lisa Tensfeldt  
Electronic Arts Inc.  
209 Redwood Shores Parkway  
Redwood City CA 94065Area code and daytime telephone number ☐ ( 650 ) 628-7545Fax number ☐ ( 650 ) 628-1422Email ☐ ltensfeldt@ea.com

CERTIFICATION\* I, the undersigned, hereby certify that I am the

Check only one ☐☐ author☐ other copyright claimant☐ owner of exclusive right(s)☒ authorized agent of copyright claimant.Name of author or other copyright claimant, or owner of exclusive right(s) ☐

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Typed or printed name and date ☐ If this application gives a date of publication in space 3, do not sign and submit it before that date.

Lisa Tensfeldt

Date ☐ 9/30/02Handwritten signature (X) ☐Certificate  
will be  
mailed in  
window  
envelope  
to this  
address:Name ☐

Electronic Arts Inc. / Attn: Lisa Tensfeldt

Number/Street/Apt ☐

209 Redwood Shores Parkway

City/State/ZIP ☐

Redwood City CA 94065

## YOU MUST

• Complete all necessary spaces

• Sign your application in space 8

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1. Application form

2. Nonrefundable filing fee in check or money

order payable to Register of Copyrights

3. Deposit material

## MAIL TO

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Copyright Office

101 Independence Avenue, S.E.

Washington, D.C. 20559-6000

As of July 1, 1994,  
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Form PA is \$10.\*17 U.S.C. § 506(e): Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.  
June 1999—200/000  
WEB REV: June 1999

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**FORM PA**For a Work of the Performing Arts  
UNITED STATES COPYRIGHT OFFICE

REGISTRATION NUMBER

PA PAU  
EFFECTIVE DATE OF REGISTRATION

Month Day Year

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

## 1 TITLE OF THIS WORK ▼

Madden NFL 09 (for the NDS)

## PREVIOUS OR ALTERNATIVE TITLES ▼

## NATURE OF THIS WORK ▼ See instructions

Computer game software including audiovisual material

## 2 a NAME OF AUTHOR ▼

Electronic Arts Inc.

## DATES OF BIRTH AND DEATH

Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"?

☒ Yes☐ No

## AUTHOR'S NATIONALITY OR DOMICILE

Name of Country

OR Citizen of USA

Domiciled in

## WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☒ NoPseudonymous? ☐ Yes ☒ No

If the answer to either of these questions is "Yes," see detailed instructions.

## NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ▼

Computer program, audiovisual material.

## NAME OF AUTHOR ▼

b Exient Limited

## DATES OF BIRTH AND DEATH

Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"?

☒ Yes☐ No

## AUTHOR'S NATIONALITY OR DOMICILE

Name of Country

OR Citizen of United Kingdom

Domiciled in

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## NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ▼

## 3 a YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED

2008

This information must be given in all cases.

## DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK

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Month July Day 29 Year 2008

United States

Nation

## 4 COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼

Electronic Arts Inc.  
209 Redwood Shores Pkwy  
Redwood City CA 94065

TRANSFER If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

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DA 075612

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REGISTRATION NUMBER

PA	PAU
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Month	Day Year

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

## TITLE OF THIS WORK ▼

Madden NFL 09 All-Play (for the Wii)

## PREVIOUS OR ALTERNATIVE TITLES ▼

## NATURE OF THIS WORK ▼ See instructions

Computer game software including audiovisual material

2

a NAME OF AUTHOR ▼  
Electronic Arts Inc.DATES OF BIRTH AND DEATH  
Year Born ▼ Year Died ▼Was this contribution to the work a  
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Citizen of USA

OR Domiciled in

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**NOTE**

Under the law,  
the "author" of  
a "work made  
for hire" is  
generally the  
employer, not  
the employee  
(see instruc-  
tions). For any  
part of this  
work that was  
"made for hire"  
check "Yes" in  
the space  
provided, give  
the employer  
(or other  
person for  
whom the work  
was prepared)  
as "Author" of  
that part, and  
leave the  
space for dates  
of birth and  
death blank.

## b NAME OF AUTHOR ▼

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## a YEAR IN WHICH CREATION OF THIS

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## b DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK

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Nation

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209 Redwood Shores Pkwy  
Redwood City CA 94065TRANSFER If the claimant(s) named here in space 4 is (are) different from the author(s) named in  
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Year of Registration ▼

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Preexisting Material Identify any preexisting work or works that this work is based on or incorporates. ▼

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DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.

Name ▼

Account Number ▼

ELECTRONIC ARTS INC.

DA 075612

CORRESPONDENCE Give name and address to which correspondence about this application should be sent Name/Address/Apt/City/State/ZIP ▼

Randy S. Hembrador  
Electronic Arts Inc.  
209 Redwood Shores Parkway  
Redwood City CA 94065

Area code and daytime telephone number

( 650 ) 628-9131

Fax number

( 650 ) 628-1422

Email rhembrador@ea.com

CERTIFICATION\* I, the undersigned, hereby certify that I am the

Check only one ▶

☐ author☐ other copyright claimant☐ owner of exclusive right(s)☒ authorized agent of Electronic Arts Inc.

Name of author or other copyright claimant, or owner of exclusive right(s) ▲

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Typed or printed name and date ▼ If this application gives a date of publication in space 3, do not sign and submit it before that date.

Randy S. Hembrador

Date 9/11/2008

Handwritten signature (X) ▼

Certificate  
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window  
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to this  
address:

Name ▼

Electronic Arts Inc. c/o Randy S. Hembrador

Number/Street/Apt ▼

209 Redwood Shores Parkway

City/State/ZIP ▼

Redwood City CA 94065

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REGISTRATION NUMBER

PA PAU  
EFFECTIVE DATE OF REGISTRATION

Month Day Year

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

TITLE OF THIS WORK ▼

Madden NFL 09 (for the PlayStation Portable).

PREVIOUS OR ALTERNATIVE TITLES ▼

NATURE OF THIS WORK ▼ See instructions

Computer game software including audiovisual material

NAME OF AUTHOR ▼

Electronic Arts Inc.

DATES OF BIRTH AND DEATH

Year Born ▼

Year Died ▼

Was this contribution to the work a  
"work made for hire"?☒ Yes☐ No

AUTHOR'S NATIONALITY OR DOMICILE

Name of Country

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Domiciled in

WAS THIS AUTHOR'S CONTRIBUTION TO  
THE WORKAnonymous? ☐ Yes ☒ NoPseudonymous? ☐ Yes ☒ No

If the answer to either  
of these questions is  
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209 Redwood Shores Pkwy  
Redwood City CA 94065

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5

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a

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See instructions  
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this space.

Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. ▼

b

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.  
Name ▼ Account Number ▼

a

7

ELECTRONIC ARTS INC.

DA 075612

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/ZIP ▼

Randy S. Hembrador  
Electronic Arts Inc.  
209 Redwood Shores Parkway  
Redwood City CA 94065

b

Area code and daytime telephone number ( 650 ) 628-9131

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Email rhembrador@ea.com

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Check only one

☐ author☐ other copyright claimant☐ owner of exclusive right(s)☒ authorized agent of Electronic Arts Inc.

Name of author or other copyright claimant, or owner of exclusive right(s) ▲

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

8

Typed or printed name and date ▼ If this application gives a date of publication in space 3, do not sign and submit it before that date.

Randy S. Hembrador

Date

9/11/08

Handwritten signature (s) ▼

Certificate  
will be  
mailed in  
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address:

Name ▼

Electronic Arts Inc. c/o Randy S. Hembrador

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209 Redwood Shores Parkway

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Redwood City CA 94065

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DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

## TITLE OF THIS WORK ▼

Madden NFL 09 (for the PlayStation 2)

## PREVIOUS OR ALTERNATIVE TITLES ▼

## NATURE OF THIS WORK ▼ See instructions

Computer game software including audiovisual material

## NAME OF AUTHOR ▼

a Electronic Arts Inc.

## DATES OF BIRTH AND DEATH

Year Born ▼ Year Died ▼

Was this contribution to the work a  
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## AUTHOR'S NATIONALITY OR DOMICILE

Name of Country

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Randy S. Hembrador  
Electronic Arts Inc.  
209 Redwood Shores Parkway  
Redwood City CA 94065

b

Area code and daytime telephone number ( 650 ) 628-9131

Fax number ( 650 ) 628-1422-

Email rhembrador@ea.com

CERTIFICATION I, the undersigned, hereby certify that I am the

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☐ author☐ other copyright claimant☐ owner of exclusive right(s)☒ authorized agent of Electronic Arts Inc.

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of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

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Randy S. Hembrador

Date 9/11/2008

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PA PAU  
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## TITLE OF THIS WORK ▼

Madden NFL 09 (for the PLAYSTATION 3)

## PREVIOUS OR ALTERNATIVE TITLES ▼

## NATURE OF THIS WORK ▼ See Instructions

Computer game software including audiovisual material

## NAME OF AUTHOR ▼

a Electronic Arts Inc.

## DATES OF BIRTH AND DEATH

Year Born ▼ Year Died ▼

Was this contribution to the work a  
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## AUTHOR'S NATIONALITY OR DOMICILE

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WAS THIS AUTHOR'S CONTRIBUTION TO  
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Anonymous?

☐ Yes☒ No

Pseudonymous?

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 209 Redwood Shores Parkway  
 Redwood City CA 94065

Area code and daytime telephone number ( 650 ) 628-9131

Fax number ( 650 ) 628-1422

Email rhembrador@ea.com

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Randy S. Hembrador

Date 9/11/2008

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## PREVIOUS OR ALTERNATIVE TITLES ▼

## NATURE OF THIS WORK ▼ See instructions

Computer game software including audiovisual material

## 2 a NAME OF AUTHOR ▼

Electronic Arts Inc.

## DATES OF BIRTH AND DEATH

Year Born ▼

Year Died ▼

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## AUTHOR'S NATIONALITY OR DOMICILE

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## WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

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Date

9/11/08

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Electronic Arts Inc. c/o Lisa Tansfeldt

RANDY S. HEMBRADOR

Number/Street/Apt ▼

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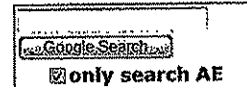
# EXHIBIT 2



# The Armchair Empire

All Things Gaming

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## Details

Jeremy Strauser got involved with the Madden NFL franchise almost at its genesis. And in 2003 he's still deep in the trenches -- probably even deeper in his role as producer. We recently caught up with Jeremy and peppered him with questions about the upcoming Madden 2003. We cover what would happen if Mr. Madden went for his final field goal, changes to the play-by-play, and the Mini-Camp feature among many other topics. Thanks for your time, Jeremy!

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## Madden NFL 2003 Q&A with Jeremy Strauser

Conducted by Tim Martin

### Who are you, how'd you wind up at EA, and what is your general background?

Jeremy Strauser, Producer on the Madden NFL series of games. I came to EA because I was and still am a huge sports fan. I always liked video games (going back to Atari 2600 days) and when EA started doing sports games on the Sega Genesis in the early 90's I played them all the time. In the infancy of the internet I found the associate producer of Madden posting on a newsgroup and started trading emails with him about the game. After doing that for a while, he asked me if I wanted to come out to California to test their new version -- I took a gamble and did that after finishing college and the rest as they say is history; I've been at EA for over 7 years now.

### What changes should we see with Al Michaels in and Pat Summerall out? Will the play-by-play be any different?

Clearly there is a different type of performance from Al, he is more analytical and probably uses more words than Pat did. That is a huge difference, because making that blend with John Madden was a major effort this year -- we ended up re-doing close to 75% of John's stuff and re-working our commentary logic engine on top of that. So not only do you have all new performances, but you have a new engine that is much more intelligent about the game they are talking about -- they are involved with the developing situations as opposed to just reporting what happened. The pairing of Michaels and Madden is great, they fit very well together and their combined experience really shows in the quality of the commentary.

### How do you think the Online Play feature will impact Madden gaming? How do you see the feature playing out in an ideal situation?

Taking PS2 online is a great evolutionary step in my opinion. We've always been about the competition of playing the exciting. I'm looking forward to logging on when the game ships. To be able to expand that to a much broader scale is and having thousands of people waiting to play a head to head game. It is tough to predict how big or prevalent online gaming will become, we're just happy to deliver a fun and easily accessible online game this early in the cycle and we have the foundation built for the evolution of this new platform.

In a screenshot from E3, Tom Brady can be seen throwing with a "side-arm"

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throwing motion.

**How many different throwing angles were put in the game?**

Brady was actually just a test case; he is more of a thrower, so he's been changed back to that style completely different set of throw animations for Rich Gannon and Jake Plummer -- each QB has his own animations.

**Will the computer offer the human gamer more trades this year? Will the CPU make smarter drafts?**

Draft logic has been reworked as part of the change to the new "scouting report" drafting method, so that aspect is greatly improved, and the scouting report stuff really makes this aspect of Franchise mode more realistic and fun to use at the same time. Instead of just picking the top ranked guy on the list you actually have to scout individual players and you can sometimes find diamonds in the rough or if you don't scout you can end up with a draft bust. We had computer initiated trades on the drawing board this year, but decided to spend the time on other efforts due to the lack of trading in the NFL. The player can still initiate trades, even of draft picks during the draft.

**How will the three versions of the game differ from each other? (Will they?)**

There are some subtle differences, but our goal is to deliver the same complete experience on all major platforms (PC included), while taking advantage of each platform where we can. For example, we have higher resolution textures in XBOX than on PS2, but PS2 has online this year, while PC has extensive online offerings.

**The Mini-Camp feature sounds intriguing. Can you go into some detail on how that will work?**

Mini-camp has turned out to be something even bigger and better than we expected. For new players, it helps learn the key game play skills you need in a full game and for experienced gamers it has become a highly addictive way to play Madden. The key here is that there are 8 mini-games: 3 offensive, 3 defensive and 2 special-teams. Using game play controls and movements we put you in a unique mini-game at one of the 32 NFL mini-camp sites. There is skill level progression, high score keeping, trophies to be earned and exclusive Madden Cards to win when you get the Gold Trophy in each drill. We find ourselves passing the controller back and forth on these and playing them constantly to get the best score -- we think people are going to love these!

**How has the NFL 2k series affected the way EA Sports creates a football game?**

It hasn't really, they make some nice games over at Sega, but we have always worked the same way -- deliver the most complete and in depth way to play NFL Football, period. That means that everything is top priority to us: gameplay, deepest franchise mode, new features such as mini-camp and create-a-playbook. While others always attempt to make a run at us, they fall short when you compare things head to head and judging from what I've seen thus far this year that will be the case with Madden NFL 2003 again. Our gameplay, graphics and audio presentation are top notch and with the stuff we've added -- we've made the single biggest leap from one year to the next on a Madden game.

**God forbid, but if Mr. Madden went in for the final field goal, what would the Madden franchise be called?**

I see John several times a year, and he is in great health, so no danger there. Plus he just made the move to the Zenith of broadcasting by moving to Monday nights -- so no chance he'll retire anytime soon. He is simply the best at what he does, and his expertise really pays dividends above any of our competitors. You can have all the folks on staff you want, but they don't know more than Coach Madden.

**How are sports games fundamentally different from other genres?**

I'll admit the fact that I'm a sports game junkie. I've dabbled in other games, but sports really are my passion. (So I guess I have the right job, huh?) I think the key is that you get to live out the game as a fan anytime you want, not just on Sundays and you get the same intense competitive rush from playing a sports game as watching



your favorite team play or even maybe playing in a real game yourself. I think that competitive edge is what sets sports games apart -- I mean you can have a goal to conquer the dragon on go onto the next level, or you can beat down the guy sitting next to you and score the game winning TD with :00 on the clock...you tell me which is more exciting?

**Is it tough to add new features to an already bursting list in order to appear more than just a "statistical update"?**

You know, each year I think "what are we going to do next year" and then we start design meetings and the ideas just seem to fly. We actually ended up with more left on the cutting room floor than we'd like, so we start there and by the end we have to cut stuff to get it done on time. That's a tribute to the folks working here, creatively they are the tops in the industry and they innovate each and every year to make Madden better.

**Do you have to start from scratch each time you develop a Madden title? Or is a major overhaul done every three years, or so?**

The last major overhaul was when moved to the PS2, before that it was when we moved to the PS1, so I guess it is fair to say it is tied to major new hardware. The key though isn't the first year on the new hardware, or even the 2<sup>nd</sup>, it is the 3<sup>rd</sup> and 4<sup>th</sup> when developers really get to understand the hardware and push it to its limit -- I think that is what you are starting to see in Madden NFL 2003 with the new crowds, field and the player faces. Fun to think about what the next round of hardware can bring...

(July 3, 2002)

Our Preview of Madden NFL 2003

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# EXHIBIT 3



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News Blog

## Welcome to a new season of Madden NFL football!

by Ian Cummings 02/05/10 11:00 AM

As a team we all spent countless hours working with the community over the course of Madden NFL 10 through blogs, forums, Twitter, podcasts, interviews, radio shows, and many other avenues, so we look to continue that momentum this year and keep up the interaction with our fans for the coming year.

From the hiring of Mark Turmell (designer/creator of such massive hits as Smash TV, NBA Jam, NFL Blitz, etc) to the announcement of the fan-chosen cover athlete (via Doritos), there has been a decent amount of Madden-related news swirling around. Knowing this, we wanted to use this first blog as a way to communicate some information out to our fans to keep them in the loop with how things are shaping up for Madden NFL 11, and do so in video format so you don't have to read through 10 pages of information.

The video blog below features a few members of the team as well as some thoughts on Madden NFL 10, Madden NFL 11, and our pick for Super Bowl winners. There are plenty of other people out there that make this game great but these are some of the folks that you may be hearing from throughout the year.

Before you watch the video, I want to be very clear that our vision for the Madden NFL franchise hasn't changed. I know some folks expressed concern that the hiring of Mark Turmell equated to turning Madden NFL 11 into Madden NFL Blitz, but things couldn't be farther from the truth. We are all 100% focused on creating the most true-to-life NFL simulation experience as possible - and that's always been the goal (a goal set forth by John Madden himself 20+ years ago). We set a clear vision statement last year and it still holds true for us - "Everything you see on Sundays, see it in Madden NFL". We want to accurately deliver an amazing NFL experience in our game, whether it's through simulating the feel of a broadcast, re-creating the immersion you feel sitting at the 50 yard line at your favorite team's stadium, or making you feel like you're suiting up and pulling on your pads again. Madden NFL 10 took great strides in this area but we all know there is more to accomplish. Our best bet towards reaching those goals is staying the course and continuing on our progress that we made last cycle.

We really look forward to kicking up the interaction and information in the coming months. Thanks for reading (and watching), and feel free to hop on over to the official Madden forums to discuss anything related to this blog. Hope you enjoy the game!

- Ian Cummings  
Creative Director, Madden NFL 11 (Xbox 360/PS3)



Filed Under: Madden NFL

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### Madden Ultimate Team Week 5 Update

By Donny Moore 10/07/10 11:35 AM

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### Improve Your D Before the Snap

By Jake Stein 10/05/10 10:19 AM

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### EA SPORTS Game Changers Fantasy Focus

By Jeremy Bennett 10/01/10 11:01 AM

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### Madden Ultimate Team Week 4 Update

By Josh Looman 10/01/10 10:20 AM

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### How to Properly Utilize Play Action

By Jake Stein 09/28/10 5:13 PM



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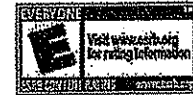
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# EXHIBIT 4





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AMERICAN NEEDLE, INC., Petitioner, v. NATIONAL FOOTBALL LEAGUE, ET  
AL., Respondents.

No. 08-661

SUPREME COURT OF THE UNITED STATES

*2008 U.S. Briefs 661; 2009 U.S. S. Ct. Briefs LEXIS 1226*

November 24, 2009

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR  
THE SEVENTH CIRCUIT.

Amicus Brief

**COUNSEL:** **[\*\*1]** WILLIAM BLUMENTHAL, STEPHEN M. NICKELSBURG, Counsel of Record, TIMOTHY H. MCCARTEN, CLIFFORD CHANCE US LLP, 2001 K STREET, N.W., WASHINGTON, D.C. 20006, (202) 912-5000.

Counsel for Amicus Curiae Electronic Arts Inc.

**[\*i]** QUESTION PRESENTED

Section 1 of the Sherman Act applies only to a "contract, combination ... or conspiracy" between separate entities" to restrain trade. *Copperweld Corp. v. Independence Tube Corp.*, 467 U.S. 752, 768 (1984) (quoting 15 U.S.C. § 1). In *Copperweld*, the Court held that because their coordinated activities do not "deprive[] the marketplace of ... independent centers of decisionmaking" or "represent a sudden joining of two independent sources of economic power previously pursuing separate interests," a parent company and its separately incorporated subsidiary constitute a single entity for Section 1 purposes. *Id.* at 769, 771. The question presented is:

Whether, consistent with the principles articulated in *Copperweld*, a professional sports league and its separately owned member clubs, which exist to produce collectively an entertainment product that no member club could produce on its own, function as a single entity for Section 1 purposes **[\*\*2]** in promoting that product. **[\*ii]**

**INTERESTS:** **[\*1]** INTEREST OF *AMICUS CURIAE* n1



2008 U.S. Briefs 661, \*1; 2009 U.S. Ct. Briefs LEXIS 1226, \*\*2

n1 Pursuant to the Court's Rule 37.6, Electronic Arts Inc. states that no counsel for any party authored this Brief in whole or in part, and no person or entity other than Electronic Arts Inc. made a monetary contribution to fund or intended to fund the preparation or submission of this Brief. Counsel of Record for all parties have consented to the filing of this Brief, and letters of consent have been filed with the Clerk.

Electronic Arts Inc. ("EA") is a leading global entertainment software company. It develops, publishes, and distributes interactive software worldwide for video game systems, personal computers, wireless devices, and the Internet.

One of EA's most important product lines is sports video games, which it markets under the brand label "EA Sports." These games provide authentic, interactive sports experiences to consumers. They are enormously successful despite an intensely competitive video game market. EA's offerings include *Madden NFL Football*, one of the highest-revenue producing video game titles of all time.

EA produces high-quality sports video games such as *Madden NFL Football* under intellectual property licenses from sports leagues such as Respondent National Football League ("NFL"). In 2004 EA competed for and won licenses from the NFL's licensing arm, Respondent National Football League Properties, Inc. ("NFL Properties"), and the licensing arm of the National Football League Players' Association, PLAYERS INC, in certain categories. These licenses allow EA to use the marks, colors, and logos of all 32 NFL member clubs, as well as the names and likenesses of nearly all NFL players.

[\*2] EA relies on these licenses to create lifelike, interactive simulations of the NFL experience. The *Madden* titles are successful in part because they allow consumers to simulate play involving any of the 32 NFL teams, using real NFL players and real NFL coaches. The simulations capture the nuances of NFL contests to the fullest extent technology allows, including not only on-field play but also the teams' logos and colors, the players' uniforms, the teams' tendencies and capabilities, and even the players' celebrations and the crowds' chants.

The success of *Madden NFL Football* vividly demonstrates how associating game play with attractive intellectual property can create and satisfy consumer demand and allow one to succeed in an intensely competitive industry. The degree of authentic sports experience helps differentiate sports simulations in much the same way that a license to *Harry Potter* or *Spiderman* intellectual property helps differentiate video games built around fantasy themes. Authentic simulation is an important part of competition in the video game market.

EA licenses many trademarks and other intellectual property rights for its video games, typically from a single licensor. In most cases the licensor is formally a single entity—for example, Warner Bros. Entertainment Inc. has licensed EA certain rights to *Harry Potter*. To be able to license the intellectual property necessary to bring sports league simulations to market, EA similarly needs to deal with the leagues as single sources. Accordingly, EA is submitting this Brief to provide the Court with a licensee's perspective on the procompetitive justifications for treating sports leagues in [\*3] appropriate circumstances as a single entity for antitrust purposes, consistent with economic reality.

A sports league's use of a single licensing vehicle to bundle its members' intellectual property creates obvious efficiencies. Through the league, a licensee such as EA can negotiate and contract with one entity rather than many, lowering transaction costs and allowing the licensee to pass those savings along to consumers. By lowering transaction costs, moreover, the league creates opportunities to produce a unique and desirable product. Just as the NFL could not produce a season without cooperation among each of its clubs on matters such as scheduling, locations, and rules, EA could not produce a realistic, full-league NFL simulation without the cooperation of all the NFL clubs. Housing the league's intellectual property in a single entity allows the league to grant licensees such as EA a true license insusceptible to holdouts or defections by individual teams, which in turn allows EA to produce a complete, league-based product.



2008 U.S. Briefs 661, \*3; 2009 U.S. S. Ct. Briefs LEXIS 1226, \*\*2

A single-entity rule that is overly restrictive or that reduces certainty would have highly undesirable effects on producers of products built on licenses. An overly-restrictive single-entity test that does not comport with economic reality could bar cooperative conduct that is actually procompetitive. And a single-entity test that is unclear or that remains unsettled over time would leave licensees unsure when entering into transactions whether they are dealing with single entities--which may unilaterally choose to license exclusively, non-exclusively, or not at all--or whether they are buying an antitrust lawsuit. As neither of these outcomes is desirable, EA has an [\*4] interest in the adoption of a rule that is clear, reliable, and economically sound.

## **TITLE: BRIEF FOR ELECTRONIC ARTS INC. AS *AMICUS CURIAE* SUPPORTING THE NFL RESPONDENTS**

### **SUMMARY OF ARGUMENT**

Section 1 of the Sherman Act draws a fundamental distinction between concerted conduct and unilateral conduct: Concerted action among separate entities is subject to scrutiny under the Act, while unilateral action by a single entity is not. The decisions of the Court, most recently *Texaco, Inc. v. Dagher*, 547 U.S. 1 (2005), [\*\*4] confirm that joint ventures may act as a single entity with respect to at least some of their activities. The same is true of a sports league such as the NFL, which is essentially a joint venture composed of 32 member clubs and the league itself. Few would dispute that the NFL acts as a single entity at least for some purposes, such as when it makes decisions regarding league play by setting schedules and on-field rules.

The principles that render the NFL a single entity for purposes of regulating league play also apply to NFL Properties and the licensees that develop league products. Without collaboration, transaction costs and opportunistic behavior by hold-out clubs could preclude licensors such as the NFL from creating and developing the league brand, and licensees such as EA from creating league products. In the intellectual property context in particular, concerted action to develop and manage a trademark or brand is critical to the creation of a product and demand for that product. A joint venture that facilitates the creation of a new product is inherently procompetitive, and not anticompetitive. The venture does not "reduc[e] the diverse directions in which economic power [\*\*5] is aimed," *Copperweld Corp. v. Independence Tube Corp.*, 467 U.S. 752, 769 (1984), but rather adds economic power in a new direction by making markets for new products.

The test proposed by the Solicitor General is too restrictive in this regard, as it requires an effective merger within the operation in question rather than mere integration, even where collective action is the only practical means of creating a product. Single-entity treatment should be available to collaborations that create new products and that do not raise the dangers that antitrust law is designed to police.

For licensees, single-entity treatment for a league that licenses intellectual property provides essential efficiency and certainty. As to efficiency, a licensee can negotiate and contract with one entity rather than many, thereby lowering transaction costs and allowing the licensee to pass those savings along to consumers. See, e.g., *Broad. Music, Inc. v. Columbia Broad. Sys., Inc.*, 441 U.S. 1, 22-23 (1978). And as to certainty, single-entity treatment allows licensees to negotiate with a joint venture just as with any other counterparty, without fear that the [\*\*6] resulting license will lead to an antitrust suit. See *Dagher*, 547 U.S. at 5. After formation, a venture should be able to sell its products under the same conditions characteristically enjoyed by a unitary firm--including in setting pricing, in issuing exclusive or non-exclusive licenses, and in other ordinary market conduct. And the venture's licensees should be able to deal with the venture free of Sherman Act concerns.

### **[\*6] ARGUMENT**

#### **I. A Joint Venture Acts As A Single Entity When Its Members Go To Market Through The Venture, Pooling Capital And Sharing The Risk Of Profit And Loss.**



"The Sherman Act contains a basic distinction between concerted and independent action," which "is necessary for a proper understanding of the terms 'contract, combination ... or conspiracy' in [Section] 1" of the Act. *Copperweld*, 467 U.S. at 767, 769 (quoting 15 U.S.C. § 1). Specifically, Section 1 prohibits only *concerted* action to restrain trade. As a result, Section 1 is violated only when "separate entities" enter into a "contract, combination ... or conspiracy" in restraint of trade. *Id.* at 769. [\*\*7] In contrast, the independent "conduct of a single firm is governed by [Section] 2 alone and is unlawful only when it threatens actual monopolization." *Id.* at 767.

Single-entity treatment is not limited to unitary firms. For example, although technically separate entities, corporate parents and subsidiaries are "single entities" in the eyes of the antitrust laws because parent-subsidiary agreements do not exhibit the anticompetitive dangers ordinarily attributed to concerted conduct. In particular, such agreements do not "represent a sudden joining of two independent sources of economic power previously pursuing separate interests." See *id.* at 770-71. An agreement between a parent and its subsidiary, like "an internal 'agreement' to implement a single, unitary firm's policies[, thus] does not raise the antitrust dangers that [Section] 1 was designed to police." *Id.* at 769. For this reason, the Court has held that "the [\*7] coordinated activity of a parent and its wholly owned subsidiary must be viewed as that of a single enterprise for purposes of [Section] 1 of the Sherman Act." *Id.* at 771. Other agreements [\*\*8] under the corporate umbrella, including agreements among "officers of a single firm" and between "a corporation and one of its unincorporated divisions," likewise do not implicate "antitrust dangers" and are immune from antitrust scrutiny. *Id.* at 769-70.

Joint ventures may constitute "single entities" in certain circumstances. Among other situations, "joint ventures [are] regarded as a single firm competing with other sellers in the market" when "persons who would otherwise be competitors pool their capital and share the risks of loss as well as the opportunities for profit." *Dagher*, 547 U.S. at 6 (internal quotation omitted). Where joint venturers go to market through the venture rather than individually, pooling capital and sharing the risk of loss, the resulting enterprise acts as its own center of decisionmaking power distinct from its constituent parts, and is properly treated as its own entity for antitrust purposes. As the Solicitor General has recognized, this "reasoning and result generally reflect a natural extension of *Copperweld*." Br. United States as Am. Cur. Supp. Pet. 10 n.4.

## **II. A Joint Venture's Production Of A Good [\*\*9] That Can Be Produced Only Through Collective Action Is Inherently Procompetitive.**

The procompetitive benefits of joint ventures are especially evident in the case of collective goods. A joint venture that pools the resources of its constituent members to create a collective good is [\*8] inherently procompetitive and does not raise the antitrust dangers of concern under Section 1. The Court has long recognized that horizontal agreements among even competitors and potential competitors to create new products are highly likely to be procompetitive. See, e.g., *Broad. Music, Inc.*, 441 U.S. at 19-24 (identifying the procompetitive features of blanket copyright licenses in the music industry). Where the product produced is a collective good, such horizontal agreements "are essential if the product is to be available at all." *NCAA v. Bd. Regents of Univ. of Okla.*, 468 U.S. 85, 101 (1984).

This is certainly true in the context of sports leagues consisting of multiple teams, which may not be off-the-field competitors at all. "[T]he clubs that make up a professional sports league are not completely independent economic competitors, as they depend [\*\*10] upon a degree of cooperation for economic survival." *Brown v. Pro Football, Inc.*, 518 U.S. 231, 248 (1996). For example, "[i]f the teams were entirely independent, there could be no consistency of staffing, rules, equipment, or training. All of these are at least arguably necessary to permit the league to create an appealing product in the entertainment market." *NFL v. N. Am. Soccer League*, 459 U.S. 1074, 1077 (1982) (Rehnquist, J., dissenting from denial of certiorari). See also *Chicago Prof'l Sports Ltd. P'ship v. NBA*, 95 F.3d 593 (7th Cir. 1996) ("*Bulls II*"). In certain contexts, therefore, a league such as the NFL is "not really a joint sales agency offering the individual goods of many sellers, but is a separate seller offering its [product] of which the individual [teams] are raw material." *N. Am. Soccer League*, at 1077. In these contexts, the league acts as a single entity.

[\*9] NFL league play is not the only product that a joint venture comprising the NFL and the 32 member clubs



2008 U.S. Briefs 661, \*9; 2009 U.S. S. Ct. Briefs LEXIS 1226, \*\*10

permits. The creation of NFL Properties by the league and its clubs permits the production of new products using the brands and [\*\*11] marks of all of the 32 member teams. As a practical matter, such products can only be created by the participation in a joint venture of the league and all of its clubs. League branding differentiates products such as *Madden NFL Football* and allows them to compete with other football games, sports games, and sources of video game entertainment. In the absence of a joint venture, transaction costs and opportunistic behavior by hold-outs would substantially hinder or even prohibit the production of this unique collective good.

For example, to create a league simulation like *Madden NFL Football* in the absence of a joint venture such as NFL Properties, EA would have to negotiate with each individual club for the use of its intellectual property, including logos, names, uniforms, and trademarks. The transaction costs--and associated opportunity for holdout by a club seeking to extract exorbitant fees--could prevent EA from ever producing its product. See, e.g., *Broad. Music, Inc.*, 441 U.S. at 20 ("A middleman with a blanket license was an obvious necessity if the thousands of individual negotiations, a virtual impossibility, were to be avoided."). See also *id.* at 21 [\*\*12] (observing that "integration [was] necessary to achieve [the] efficiencies" of bulk licensing, which resulted in a "substantial lowering of costs" that "is of course potentially beneficial to both sellers and buyer").

NFL Properties' authority to act on behalf of the league and its clubs eliminates these inefficiencies. [\*10] As the holder of all of the clubs' intellectual property and the authority to issue a blanket license, NFL Properties provides a single negotiating partner and acts as an independent source of economic power. This eliminates the transaction costs of multiple negotiations, as well as the blocking power of those who--if left to their own devices--might hold out. Scholars have noted that the elimination of such transaction costs is a fundamental reason why entities integrate into a single firm. See, e.g., Oliver E. Williamson, *The Economics of Antitrust: Transaction Cost Considerations*, 122 U. PA. L. REV. 1439, 1442 (1974) ("[W]hether a set of transactions ought to be executed between firms (across markets) or within a firm depends on the relative efficiency of each mode."); Oliver E. Williamson, *The Vertical Integration of Production: [\*\*13] Market Failure Considerations*, 61 AM. ECON. REV. 112, 113, 117 (1971) ("the most distinctive advantage of the firm ... is the wider variety and greater sensitivity of control instruments that are available for enforcing intrafirm in comparison with interfirm activities," including reduction of the risk that "the divergent interests between the parties will predictably lead to individually opportunistic behavior and joint losses"). Cf. U.S. DEPT OF JUSTICE & FED. TRADE COMM'N, *Antitrust Enforcement and Intellectual Property Rights: Promoting Innovation and Competition* 54 (2007) (noting the procompetitive benefits of "joint activities that mitigate hold up"). n2

n2 Available at

<http://www.ftc.gov/reports/innovation/P040101PromotingInnovationandCompetitionrpt0704.pdf>.

The Court has recognized that joint-licensing agreements may be procompetitive where the [\*11] licensed good could not be produced in the absence of collective action. Specifically, in *Broadcast Music* the Court observed [\*\*14] that the blanket licensing of copyrighted music--that is, the bundling of individual intellectual property rights--as a practical matter was the only way that copyright holders could license their products. See *Broad. Music, Inc.*, 441 U.S. at 21. Licensing through a single vehicle thus was procompetitive because the blanket license was "truly greater than the sum of its parts; it [was], to some extent, a different product." *Id.* at 21-22 (emphasis added). The joint venture had "made a market in which individual composers are inherently unable to compete fully effectively," enhancing competition. *Id.* at 23. And as an independent source of economic decisionmaking and power, the joint venture acted as "a separate seller" in that market. *Ibid.* n3

n3 The Court in *Broadcast Music* applied a rule-of-reason analysis because it involved an agreement among competitors in the same product market, and thus raised the possibility that the "practice threaten[ed] ...



2008 U.S. Briefs 661, \*11; 2009 U.S. S. Ct. Briefs LEXIS 1226, \*\*14

competitive pricing as the free market's means of allocating resources." 441 U.S. at 23. In the context of an agreement within a league that permits the creation of a new product, by contrast, single entity treatment is appropriate.

[\*\*15]

The same principles hold true in the context of NFL Properties' licensing of products using the intellectual property of all of the NFL member clubs. These are entirely different products from those that individual clubs could create on their own. The NFL league products compete nationally and internationally against "other ... leagues ..., other sports ..., and other entertainment such as plays, movies, opera, TV shows, Disneyland, and Las Vegas." *Bulls II*, 95 F.3d at 597. NFL Properties [\*12] thus produces new, more competitive product lines that would not exist outside of the joint venture, and thus acts as a "separate seller" in those product markets. See *Broad. Music, Inc.*, 441 U.S. at 23.

NFL Properties' licensing of league products cannot reasonably be viewed as anticompetitive. Generally speaking, the creation of a joint venture to produce a good that would not otherwise exist "does not raise the antitrust dangers that [Section] 1 was designed to police." *Copperweld*, 467 U.S. at 769. In the context of the marketing of intellectual property such as the NFL brand, concerted action is necessary to invest in brand [\*16] quality and to control and enhance the image of the brand--which are procompetitive activities. Concerted action is problematic under Section 1 only where it "reduces the diverse directions in which economic power is aimed" or "suddenly increases the economic power moving in one particular direction." *Ibid*. Neither of these dangers is present when a joint venture is formed to bring a new product to market. The creation of new markets *increases* "the diverse directions in which economic power is aimed"--here, by focusing efforts on the enhancement of a single league brand--and thus does not "increas[e] the economic power moving" in a *pre-existing* direction. *Ibid*. For these reasons, NFL Properties should be viewed as a "single enterprise" when it licenses league goods. *Id.* at 771. n4

n4 Although a collectively-produced good might incidentally affect the output of an existing product, this result is no different from other intrafirm conflicts that do not give rise to concerns regarding antitrust conspiracy. See, e.g., *Bulls II*, 95 F.3d at 598 ("*Copperweld* does not hold that only conflict-free enterprises may be treated as single entities"; "[e]ven a single firm contains many competing interests."). It is well-established that a single firm may control brand output in order to manage the quality of and create demand for that brand. See *ibid*. ("To say that participants in an organization may cooperate is to say that they may control what they make and how they sell it: the producers of *Star Trek* may decide to release two episodes a week and grant exclusive licenses to show them, even though this reduces the number of times episodes appear on TV in a given market.").

[\*\*17]

[\*13] The Solicitor General rightly acknowledges that joint venture participants need not consolidate ownership and control for all purposes to qualify as a single entity for particular purposes. However, the single-entity test proffered by the United States is too restrictive. Specifically, the Solicitor General asks the Court to adopt a single-entity test under which "the teams and the league must have effectively merged the relevant aspect of their operations, thereby eliminating actual and potential competition among the teams and between the teams and the league in that operational sphere." *Br. United States as Am. Cur. Supp. Pet.* 17.

Requiring joint venturers wholly to "eliminat[e] actual and potential competition among the [collaborators] ... in [their] operational sphere" would exclude collaboration that does not "raise the antitrust dangers that [Section] 1 was designed to police," *Copperweld*, 467 U.S. at 769, providing no antitrust benefit and disadvantaging joint ventures that compete with single corporate entities. A joint venture established to create and market a product that otherwise would not exist--for example, a full service law firm--would [\*18] be denied single-entity status if its constituent members did not abandon activities that compete with the joint product--for example, the provision of *pro bono* legal services



2008 U.S. Briefs 661, \*14; 2009 U.S. S. Ct. Briefs LEXIS 1226, \*\*18

[\*14] outside of the firm. A less restrictive test, providing single-entity status where joint venturers integrate for the purpose of creating and marketing a new product, would have a stronger economic basis and would avoid imposing inefficient restrictions where antitrust dangers do not exist.

### III. Licensees Of League Products Need The Efficiency And Certainty That Single-Entity Treatment Provides.

For licensees like EA, single-entity treatment of NFL Properties provides essential efficiency and certainty. As to efficiency, by negotiating with NFL Properties a licensee such as EA may negotiate and contract with one entity rather than many, thereby lowering transaction costs and allowing the licensee to pass those savings along to consumers. See, e.g., *Broad. Music, Inc.*, 441 U.S. at 21 (observing that "integration [was] necessary to achieve [the] efficiencies" of bulk licensing, which resulted in a "substantial lowering of costs" that "is of course potentially beneficial [\*\*19] to both sellers and buyer"). And as to certainty, treating licensors as single entities allows licensees to negotiate just as they would with any corporate entity, without fear that a unilateral license would lead to an antitrust challenge.

Licensees such as EA have always viewed NFL Properties as an efficient, "one-stop-shop" for NFL League intellectual property licenses. As a licensor of league-branded products, "[f]rom the perspective of fans and advertisers," as well as licensees such as EA, the NFL (through NFL Properties) offers "one product from a single source." *Bulls II*, 95 F.3d at 599. This is true "even though [the individual NFL teams] are highly distinguishable, just as General [\*15] Motors is a single firm even though a Corvette differs from a Chevrolet." *Ibid.* Among other reasons, this is because NFL Properties has acted as the exclusive licensing vehicle of NFL league products for nearly a half century. The league and its teams created NFL Properties for this very purpose; that is, to centralize the licensing of their intellectual property, and "to conduct and engage in advertising campaigns and promotional ventures on behalf of the NFL [\*\*20] and the member teams." Pet. App. 18a (brackets omitted).

Equally important is certainty. When EA is considering whether to contract with a joint venture like NFL Properties, EA needs to know whether it is buying a license or an antitrust lawsuit. This is not a hypothetical concern, as the presence of the licensee Reebok as a defendant in this matter demonstrates. Accordingly, licensees would benefit from a rule that determines a joint venture's status with respect to a particular operation once and for all at the point of formation, and thereafter permits the venturer to function as a unified corporation.

The Court in *Dagher* recognized a distinction for Section 1 purposes between the initial agreement to form the venture, which is concerted action, and subsequent agreements among the venturers regarding the venture's business, which are unilateral action. See 547 U.S. 1 at 6. Under *Dagher*, the venturers' initial agreement to form the venture is concerted action subject to scrutiny. See *id.* at 6 n.1 ("Had respondents challenged [the joint venture] itself, they would have been required to show that its creation was anticompetitive under the rule [\*\*21] of reason."). Once the prerequisites for joint-venture treatment are established, however, subsequent agreements regarding the venture's [\*16] business are the unilateral action of the venture. See *id.* at 4. See also 7 Phillip E. Areeda & Herbert Hovenkamp, ANTITRUST LAW: AN ANALYSIS OF ANTITRUST PRINCIPLES AND THEIR APPLICATION P 1478c (2d ed. 2003) ("Once a venture is judged to have been lawful at its inception and currently, decisions that do not affect the behavior of the participants in their nonventure business should generally be regarded as those of a single entity rather than the parents' daily conspiracy.").

With single-entity status determined at the time of formation, a joint venture can operate with respect to its product as any other unitary seller. For example, the joint venture can unilaterally set pricing. *Dagher*, 547 U.S. at 6 ("[T]he pricing policy challenged here amounts to little more than price setting by a single entity--albeit within the context of a joint venture--and not a pricing agreement between competing entities with respect to their competing products."). And the venture can choose to issue licenses--including [\*\*22] exclusive licenses such as that between NFL Properties and EA. See *Bulls II*, 95 F.3d at 598 ("To say that participants in an organization may cooperate is to say that they may control what they make and how they sell it."); Gregory J. Werden, *Antitrust Analysis of Joint Ventures: An Overview*, 66 ANTITRUST L.J. 701, 730-31 (1998) ("An antitrust claim based solely on a single firm's denial of a license to a trademark would readily be dismissed."). Housing the league's intellectual property in a single entity for the purpose of



2008 U.S. Briefs 661, \*16; 2009 U.S. Ct. Briefs LEXIS 1226, \*\*22

trademark licensing is particularly appropriate, as it enables the league to grant licensees such as EA a true license insusceptible to defections or holdouts, and incentivizes licensees such as EA to develop and [\*17] invest in league-based products. In short, the league as a single entity should be free to engage in all of the ordinary market conduct in which any other competitor can engage, and its counterparties should be confident that a cloud of antitrust uncertainty will not hang over the transactions that result.

## CONCLUSION

The judgment of the Court of Appeals should be affirmed.

Respectfully submitted. [\*\*23]

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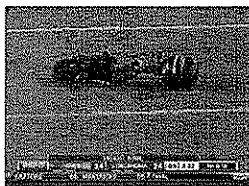
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## Madden Ratings Czar Explains How He Became Madden Ratings Czar, What The Hell "Awareness" Is

by Dan Fogarty | 10:37 am, July 27th, 2010

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*Donny Moore has one of the coolest jobs on the planet. As one of Madden 11's developers, he is essentially in charge of compiling ratings for the game's 2000+ players. Lately, the annual release of the ratings has become an event unto itself, and the increased attention has led to more pressure on Moore to get things right.*

*We interviewed Moore via email to get a better sense of the more daunting aspects of his job, how exactly he compiles the ratings, and just how he came to be Madden's "ratings czar." This is part one. Part two can be found here.*

**SportsGrid:** How did you become the "ratings guru" for Madden NFL? What's your background?

**Donny Moore:** First of all, it is the "Ratings Czar" my fine friends at SportsGrid.com! ;) I've worked at EA Tiburon since 1999. I was part of the first ever testing group here at Tiburon when we tested NCAA Football 2000 and Madden 2000. I actually got the testing job offer after winning a NCAA Football 99 tournament at the University of Central Florida (I was talking to the now current Madden Senior Producer Phil Frazier and NCAA Football Creative Director Jeff Luhr about bugs in the game, new things they needed to add, told them which players were rated incorrectly, etc).

After testing NCAA 2000, I was offered a full time position as lead tester of NCAA Football 2001. I then went into the design field working on Madden 2002 and Madden 2003. Around that time, we created a centralized group to handle the rosters and player attributes for all of our football games at Tiburon (NCAA, Madden, AFL, NFL Head Coach, etc). I was chosen to lead that group up and along with a great group of guys, and we were in charge of the rosters for Madden/NCAA 2004-2007. At that point, I had an opportunity to join up with Senior Madden designer Josh Looman on Head Coach 09 and create one of the most hardcore football sims ever made for a console. After that, I was asked by Ian Cummings and Phil Frazier to join with them on Madden 10 and 11...and the rest is history.

**SG:** Can you shed a little light on how you develop the ratings? Is it just you, or do you have a team?

**DM:** I am in charge of the final numbers but we have a team of designers who contribute to the monster data update process known as the Madden Rosters. We have guys who are in charge of updating all 2000+ players' equipment. They go online and find photo references of each player in the game and make sure he is outfitted properly in Madden. For player attributes, we use

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multiple sources and analysis to generate the Madden ratings. We are looking at pure stats from NFL.com, we look at Football Outsiders and use their metrics and data, for example.

**SG:** How much access are you given by NFL teams?

**DM:** We get game film from the NFL each week where we are able to watch a play from 4 different angles (minus the commentary and commercials), and it's the same film that the actual NFL teams are using. In fact, one of our NFL contacts jokes around and calls EA the "33rd franchise" because of all the access we are fortunate to have with the NFL. On top of all that, my team and I have our own opinions and watch every game of the season, so we certainly consider ourselves mini-experts as much time and effort we put into the Madden roster process.

**SG:** I assume you come up with ratings for speed and strength through Combine stats, like 40 yard dash times and number of bench reps.

**DM:** It's a combination of combine times, scouting reports, and game film. For attributes like speed and strength, of course, the 40 time a player runs at the Combine or at his pro day play a big role. But it is not the entire story. We take into account game speed. How fast does this player play with the pads on? They might run a 4.35 forty in shorts and a t-shirt, but with pads on and the simple fact that in football you have to think and run at the same time...well that slows some of the track stars down. It is a big reason that their speed does not translate to the NFL. And we try our best to capture that with the Madden attributes. For stats like QB Accuracy, for example, where we have it split into short/medium/deep accuracy, we use football metrics from websites like FootballGuys, Football Outsiders, Sporting News, and ESPN Insider just to name a few.

**SG:** How do you determine some of the more abstract ratings, like the always controversial “awareness”?

**DM:** We treat awareness as a type of experience rating in general. For the most part, you will not have young players or rookies with 90+ AWR right when they enter the league. On flip side, 10 and 12 year vets almost across the board have higher awareness's than younger guys to simulate more experience or deeper playbook knowledge than you would see in a rookie.

*Also check out part 2 of our interview: Moore explains how some players can take the ratings quite seriously, who the most dangerous virtual athlete of all time is, and why he thinks one player in Madden 11 may be the series' most dominant ever.*

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Bomani Jones "have another shot of cake vodka. i'll be over here putting on my pretty ricky playlist." -a kappa somewhere, before grinding on an ottoman



Buster Olney Tip of the cap to U Cincinnati, and Isaiah Pead and Zach Collaros; Pead dominated, Collaros battled through injury to play this bowl.



 Evan Woodbery My very early guess is about 60/40 Auburn fans here, but UVA fans are pretty loud because they're more concentrated in one end zone.

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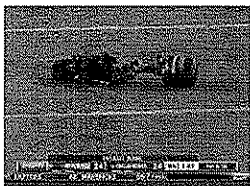
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## Madden Ratings Czar On Best Virtual Athlete Ever, Breakout Star Of Madden 11

by Dan Fogarty | 11:03 am, July 28th, 2010

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Here's Part 2 of our interview with Madden "Ratings Czar" Donny Moore, one of the lead developers of this year's edition of the uber-popular EA Sports franchise. In part one, we discussed how Moore got the one of the coolest jobs ever, and how exactly he and his team compile their ratings.

In part 2, we discuss some of the pressure he faces from current NFL players to get things right, the best virtual athlete of all time, and who he thinks will be the breakout star in Madden 11.

**SportsGrid:** Tell us about the Old Spice "Swagger" Rating. Many fans have been confused about its use within the game.

**Donny Moore:** The "Old Spice Swagger" rating determines the likelihood of a player to celebrate on the way to the endzone, or after a touchdown. For example, a running back like Adrian Peterson (99 rating) has a greater tendency to celebrate than Frank Gore (50 rating). We have seen some fans speculating on its potential widespread usage in gameplay, but that simply isn't the case. We use it in a very specific and isolated way in Madden 11.

**SG:** People now treat the release of these ratings as an event unto itself (and players especially take them very, very seriously). Does that place added pressure on you to get it right?

**DM:** Absolutely, there is a ton of pressure to get everything from speed ratings to throw power attributes to hair styles exactly right for 2000+ players in the game. There are approximately 110,000 total player attributes that I am in charge of. If you factor in EVERY piece of data about a player in Madden including things like contract information, player builds, player birthday, skin color, facemask, etc...you are talking about approximately 390,000 total data parts for all of the players in the game. Don't forget to mention the 30 years of draft classes that we are also in charge of updating each year, and you can easily see it is a big task. But the team and I welcome this challenge each year. Getting the rosters and attributes right is a big part of what makes Madden, Madden. It's what makes EA Sports, EA Sports. If it is in the game, it should be in the game. That is my personal motto. I strive every day to deliver as realistic of a representation of video game football as humanly possible.

**SG:** Can you tell us how some of the players react when they feel like you've gotten their ratings wrong?

**DM:** The NFL players themselves are a trip when it comes to their player ratings. They will hunt me down via email, text message and/or Twitter to get their ratings moved up if possible. Maurice Jones-Drew half-ried to get me fired last year, T.J. Houshmandzadeh went head-to-head with me on ESPN Cold Pizza last year politicking for a higher speed rating, and

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Stephen Tulloch from the Titans looks like he is already mad at me for Madden 11! I have several players who follow me on Twitter. That is actually a really great place to hear your voice heard when it comes to rosters and ratings in Madden 11.

**SG:** Looking back on your career, any ratings that you felt you got really, really wrong? Did you overrate or underrate a guy who went on to have a season that ran completely counter to his Madden rating?

**DM:** That is the beauty of online roster updates. We have the luxury of constantly updating the rosters and ratings to be as up-to-date as possible on a weekly basis. That means we are never too far off base, we are always trying to play catch-up from the week before to make sure that all of the breakout stars and fading players are being represented in the game accurately. During the season, the rosters and ratings are a very fluid situation as I like to tell people. They move up and down based on the current play of the NFL player during the season, in relation to his career.

**SG:** In your opinion, who is the greatest videogame athlete in history?

**DM:** Michael Vick [in Madden '04] for sure has to be a candidate here. I am predicting Chris Johnson will be a new guy to add this conversation once Madden 11 is out. I still have a special place in my heart for Tom Chambers on the Suns in Lakers vs. Celtics. That dunk from the 3 point line is a thing of beauty.

Image via IGN.

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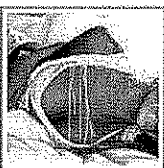
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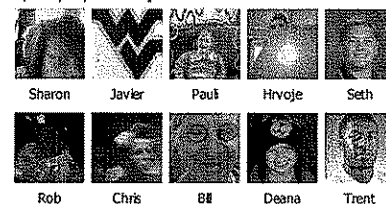
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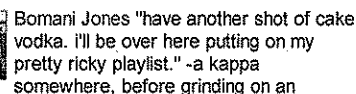
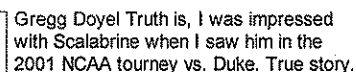
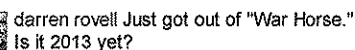
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Feature Article

Madden NFL 2004 Interview

» Submitted on: 06/02/2003 by Steve Noah

Operation Sports is proud to present our interview with Jeremy Strauser, Supervising

Producer of Madden 2004.



**Operation Sports:** Can you explain how the DB AI has been addressed?

**Jeremy Strauser:** There have been a number of significant improvements to DB AI. We've added a ton of new catch and swat animations that DB's can use; we've made ratings more important to playing animations so that good DB's outperform bad ones; we've worked with several NFL assistant coaches (as part of our new NFLCA license) on real-life secondary play and put that to work in the game; and we've made DB's more aggressive towards playing the body if they can't make a play on the ball.

**Operation Sports:** Will O Line stats be kept correctly this year?

**Jeremy Strauser:** If this is in reference to pancake blocks, yes.

**Operation Sports:** Will player weight have a more realistic effect in the game?



**Jeremy Strauser:** Weight plays a big part of all collisions and momentum in Madden and is more realistic than any other football games out there currently. Additions this year like "impact" blocks and tackles really demonstrate this well.

**Operation Sports:** Will weather have a bigger affect on the game? Will we see slipping and sliding if it's raining/snowing or see balls sail off-target if it's windy and you try to throw?

**Jeremy Strauser:** The weather already plays an affect to a degree, there are more fumbles in the rain and snow, and wind affects the flight of the ball.

**Operation Sports:** Will there be some kind of home field advantage? As it is, home and away games feel the same minus the look.

**Jeremy Strauser:** There is to a degree, with the crowd noise and excitement level, but we don't want player ratings to be affected. From talking to NFL players and coaches (and John Madden) that kind of stuff doesn't affect them. Last year's playoffs are a pretty good example of how little home-field means, and how much talent and game planning means.

**Operation Sports:** Will there be late hit penalties?

**Jeremy Strauser:** No, that really isn't a part of the NFL that we're looking to recreate.

**Operation Sports:** Will there be more pass interference calls?

**Jeremy Strauser:** This is subtle tuning thing, which we are working on, but yes if you interfere, you should expect to be flagged.

**Operation Sports:** Will there be accelerated clock for the console versions?

**Jeremy Strauser:** Yes, this is in.

**Operation Sports:** Is there going to be a separate button for QB slides and dives?

**Jeremy Strauser:** No, sorry, we just run out of buttons for everything we want to do. It is a tap vs. hold use on that button.

**Operation Sports:** Is the squib kick in the special teams playbook?

**Jeremy Strauser:** We're looking into it, so hopefully yes.

**Operation Sports:** Will the CPU trade picks during the draft with other CPU controlled teams?

**Jeremy Strauser:** No, we haven't added this.

**Operation Sports:** What work has been done to make the draft even more realistic?

**Jeremy Strauser:** Our franchise guys are actually working on that this week, they are tuning CPU draft logic extensively and have reworked how our rookies are rated, whether generated or imported from NCAA Football. Also they have tweaked it so that you might have some draft busts in the first round, or might find a diamond in the rough in later rounds, so you scouting will pay off.

**Operation Sports:** Can updated rosters be used online this year?

**Jeremy Strauser:** Yes, in fact you have to use the latest rosters in online games and you can save substitutions outside of the game.

**Operation Sports:** Can custom rosters, sliders and playbooks be used online?

**Jeremy Strauser:** No, the rosters need to be the same on both sides and besides this creates potentially massive imbalances in gameplay.

**Operation Sports:** Has there been any depth added to free agency, such as UFA and RFA, players not wanting to sign with your team all together, and players not wanting to sign because you already have a starter who is better at that position.

**Jeremy Strauser:** We've worked on the logic a bit, but know we don't have restricted free agents.

**Operation Sports:** Will we be able to edit a player's position?

**Jeremy Strauser:** No, other than looking for a way to cheat, there is really no reason to do this.



**Operation Sports:** How many new plays are in the game?

**Jeremy Strauser:** We have over 3000 total plays in the game now, the vast majority of which are new. This has been an amazing year for play books. The playbooks are based on real game films from NFL games from last season, as well as on info we received from all the assistant coaches that we met with.

New formations to look for on offense include the Trips Bunch, Full House, Jumbo T, Empty 4WR (4WR's and a TE – tons of teams run that), Singleback 4WR variations, Singleback Big Variations, Strong I Twins, Shotgun Trips TE, and quite a few more. We even have Favre line up closer to center in their 2-back Shotgun.

On defense we added a 5-man front to 4-3 (4-3 Over), 3-3-5 Nickel, Nickel-Strong (close to 5 man front Nickel), and a Dime-Flat which has the outside DB's and safeties lined up flat across from each other at about 12 yards deep. There is also a 3-Deep Quarter, a new 3-4 called "Pressure", and a real 46 this year.

**Operation Sports:** Will there be Transition and Franchise Tags and will the NFL rules apply to them?

**Jeremy Strauser:** No, this is probably the lone aspect of the NFL salary system we don't have, we've added real signing bonuses and cap penalties this year.

**Operation Sports:** Will there be a RFA Market and UFA Market?

**Jeremy Strauser:** Not exactly sure what you mean by this one. We don't have restricted free agents, but there is indeed a market value on unrestricted free agents that is dynamically set and adjusts based on in-game signings.

**Operation Sports:** In the depth charts, will we be able to covert a DE into a LB or a WR to a TE?

**Jeremy Strauser:** No, but there aren't extensive penalties to playing these guys in those positions.

**Operation Sports:** Will CPU Teams offer you trades even if you do not put someone on the trading block?

**Jeremy Strauser:** Trading block is all new feature this year, it is a great way to get intelligent offers for players you are willing to trade. The trading block allows for a lot of offers with many variables, but no CPU teams will not offer random trades out of the blue.

**Operation Sports:** Will we be able to sign players to contracts beyond 7years?

**Jeremy Strauser:** No, this is partially a limitation of the memory systems games, but in reality deals in the NFL beyond 7 years rarely ever make it to their full term either via renegotiation, being cut or nullified years.

**Operation Sports:** How will the signing Bonus work with the contracts?

**Jeremy Strauser:** Exactly like the NFL, the signing bonus comes out of your team balance sheet immediately, but the bonus itself is split out over the length of the contract for the cap value, and associated cap penalty.

**Operation Sports:** Are there Real life Assistant Coaches and will they be allowed to become a Head Coach?

**Jeremy Strauser:** Yes, we now have the NFL Coaches Association license, which gets us all the assistants in addition to head coaches. You can hire and fire coaching staffs including assistants or promoting assistants to head coaches. We also have certain retired players enter the coaching pool, so it is possible to have Jerry Rice as a head coach in future franchise years.

**Operation Sports:** Has the atmosphere / presentation been upgraded. Will there be a big difference between week 6 in the regular season and say the NFC championship? Will we see a change in the play by play talk from regular season to playoffs?

**Jeremy Strauser:** Yes, there has been extensive tuning with the crowd audio and play by play for big games and playoffs.

**Operation Sports:** Will there be a playoff statistics section?

**Jeremy Strauser:** No, sorry, good idea though.

**Operation Sports:** Is Field turf now in the game? Does it look different then regular turf or grass?

**Jeremy Strauser:** We have a new artificial grass like Field Turf, and yes it is different than grass or artificial turf.

**Operation Sports:** Can we edit a teams current uniforms or logo's? For example if the team wears black cleats but we want them to wear



white can we edit it under equipment?

**Jeremy Strauser:** No, sorry this is a restriction of the NFL to maintain the look and integrity of their marks, we are unable to edit real NFL uniforms or logos.

**Operation Sports:** If your playing in the Texans stadium does the roof open or close?

**Jeremy Strauser:** Well it can't open and close, but you can play in Reliant Stadium with the roof open or closed.

**Operation Sports:** Have the stadiums been redone this year to really capture the scope and size of a real NFL arena / stadium?

**Jeremy Strauser:** Our stadiums were reworked dramatically over the past two years to be the most accurate in any game out there. We sent people to each stadium to take photos, measurements, etc. So our walls are the right distance from the field and endzones, the tunnels are the right width, and the artwork on the walls is accurate. They look awesome.

**Operation Sports:** Will the Bears new stadium the "New Soldier Field" be in the game?

**Jeremy Strauser:** No, sorry, the owners of that stadium haven't been willing to include the stadium like the other stadium owners. We have a generic stadium for Chicago.

**Operation Sports:** Will Madden support 720p and 1080i this year?

**Jeremy Strauser:** Assume you are asking on Xbox, no, but we do support 480p on Xbox and Gamecube.

**Operation Sports:** When will PC users be able to draft from our own NCAA game?

**Jeremy Strauser:** Sorry, we don't have plans for an NCAA PC game right now.

**Operation Sports:** How will owner mode work, will you have a bank account, and will it cost money to move your team to a new city and stadium?

**Jeremy Strauser:** Not a bank account, more of a balance sheet, and yes everything costs money. Owner mode takes a few factors and weaves them together nicely: team success or wins/losses, fan support/attendance and profit/loss. Each factor influences the other and the goal is to not only win games, but make money and keep the fans happy and seats filled. An example is that you can sell more tickets at cheaper prices or attract more fans with cheap concessions, you're your financial bottom line will suffer and you might not be able to pay that big signing bonus or hire the hot new offensive coordinator as your head coach. Owner mode really changes the whole dynamic of franchise mode and gives you complete control over all new aspects of the team.

**Operation Sports:** If you make yourself the coach in franchise mode as well as using the owner mode how does hiring your own coaching staff work?

**Jeremy Strauser:** Sorry, no created coaches in Owner Mode, with the huge numbers of coaches we have, we had to set some limitations.

**Operation Sports:** Will we will be able to edit classic teams?

**Jeremy Strauser:** Yes, we know people have wanted to do this, so we finally figured out a way to make it happen.

**Operation Sports:** Is there controller support on the menus for PC Madden or is it strictly mouse again?

**Jeremy Strauser:** No controller, but we do have full mouse control (including right click and wheel scroll) in PC menus.

**Operation Sports:** Did Al and John record their commentary Together this year?

**Jeremy Strauser:** No, we only recorded a small portion of there stuff together. Due to things like schedules, the fact that neither like to travel much and some other factors, we usually end up playing a tape of Al for John to respond to. Honestly it is hard to tell apart the commentary from when they were together to the taped stuff, it works really well.

**Operation Sports:** Will there be an actual Super Bowl celebration?

**Jeremy Strauser:** The Super Bowl celebration is more special than normal games and includes more, and things like the Lombardi trophy. We try to make it special, and I'm not sure what you have in mind, but if it is hundreds of people on the field, that isn't going to happen anytime soon.

**Operation Sports:** Will there be some kind of trophy room with all the division championships, conference and Super Bowl championship



trophies you've won? What about personal accolades?

**Jeremy Strauser:** No, we've talked about this, but we didn't do that this year.

**Operation Sports:** Will there be a hall of fame?

**Jeremy Strauser:** No, again we've certainly considered it, but it didn't make the final list.

**Operation Sports:** What do you feel Madden has that no other game has?

**Jeremy Strauser:** A lot honestly; the game play and depth of Madden really sets it apart from all the others. This was a long interview and we didn't even scratch the surface of new things like Playmaker Control, all of the cool new PS2 online features, EA SPORTS Bio, the new Package Personnel System and we just barely touched on Owner Mode. It is this depth and our commitment to gameplay and quality that really sets Madden apart from the other games. I think this year's Madden is the biggest one year upgrade ever in terms of new features, animations and game play tweaks, so while other games are still playing catch-up, we continue to innovate and deliver a solid game each year.

**Operation Sports:** Will online game play be available to us in the UK and the rest of Europe?

**Jeremy Strauser:** Not in the PAL version, no. We don't have any European based servers or staff and there really aren't enough sales in Europe to have a substantial online community. You could in theory get an NTSC import, with an NTSC PS2 and NTSC television and connect though – not sure how well that would work, but I guess it could be done.

**Operation Sports:** We would like to thank you for your time with this interview, is there anything else you would like to add?

**Jeremy Strauser:** Sure, no problem, we appreciate your site and others like it, that are dedicated to the same thing we are, great sports games.

## Madden NFL 2004 Details

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PUBLISHER:

Electronic Arts

DEVELOPER:

Tiburon

SPORT:

Football

PLATFORM:

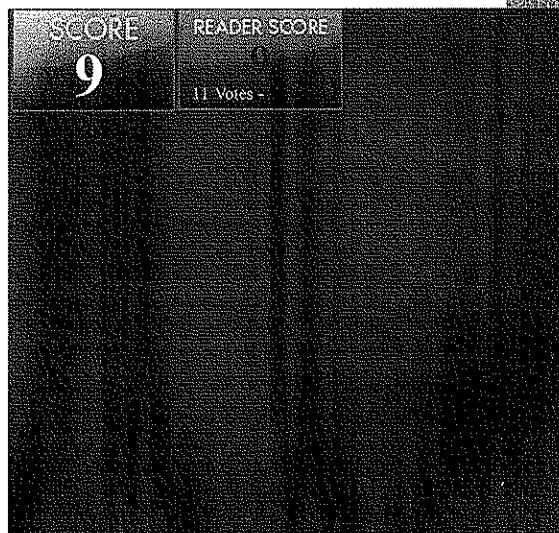
NGC - PC - PS2 - PSOne - Xbox

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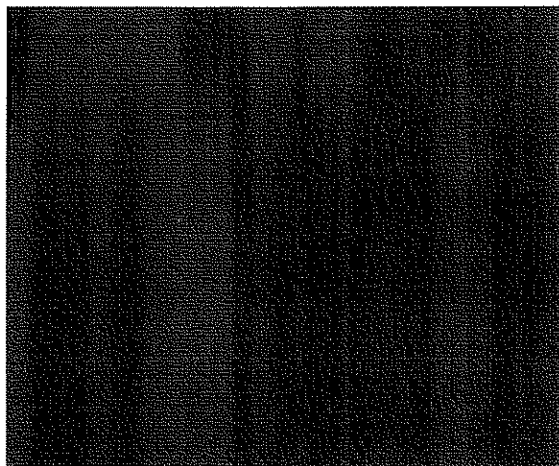
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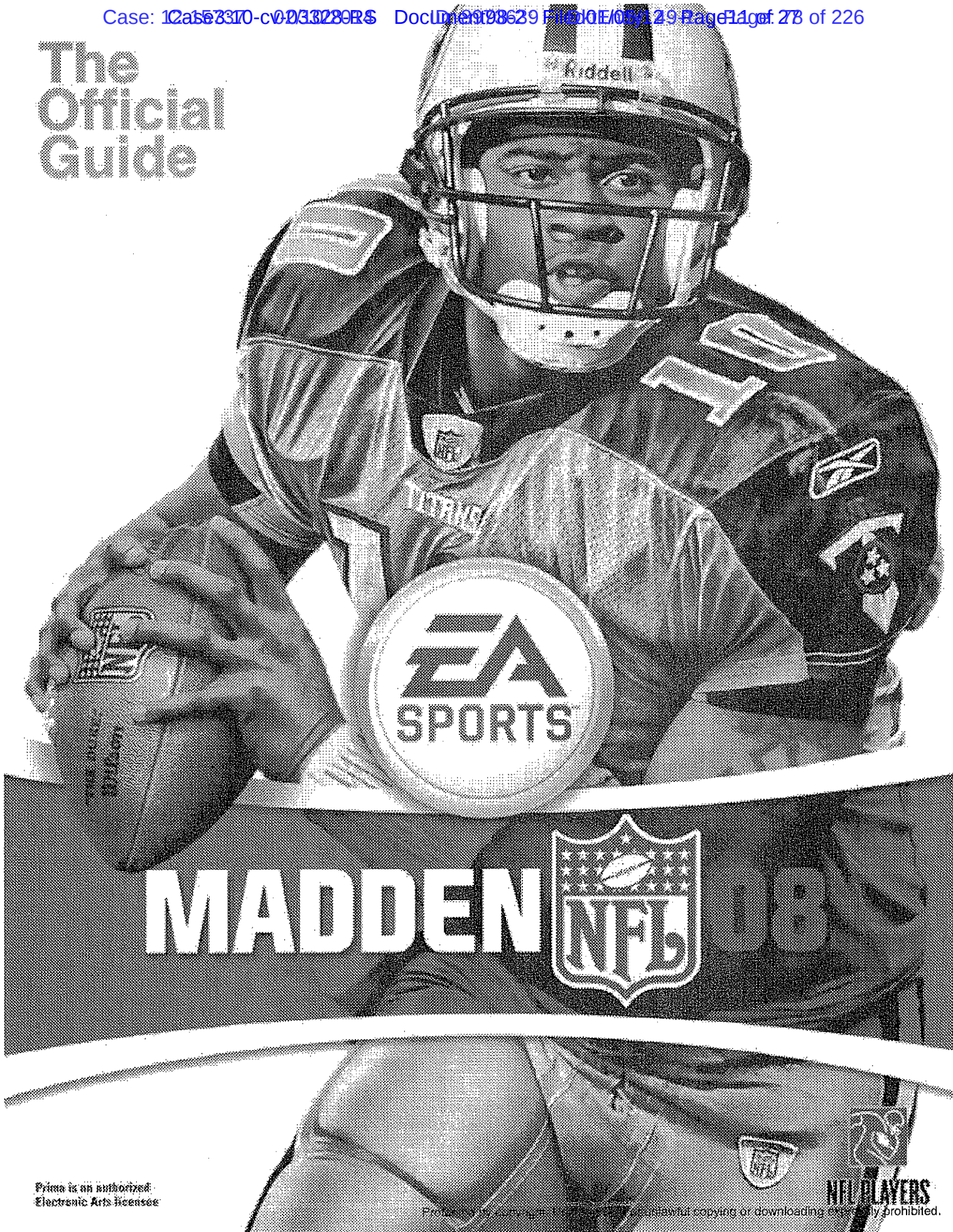
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# EXHIBIT 7



# The Official Guide



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NFL PLAYERS

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Strategy Guide Created By:

**Kaizen Media Group™**



**President:** Howard Grossman

**Writers:** The Sports Video Gamers

**Design/Production:** Tim Davis

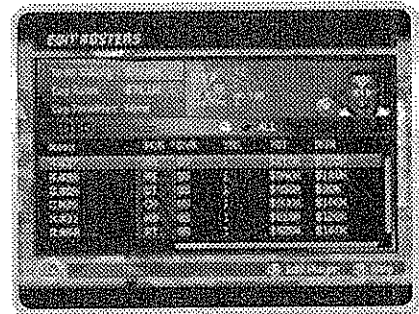
**Production Assistance:** Hg, Craig Keller, Troy Silver, and Holly Davis

EASPORTS Fantasy Football section written by the Prima Crew: Jeff Barton, Don Tica, James Knight, Fernando Bueno, Brandon Smith, Andy Roller, Chris Rojas, Paul Giacomotto, Dan Ransom



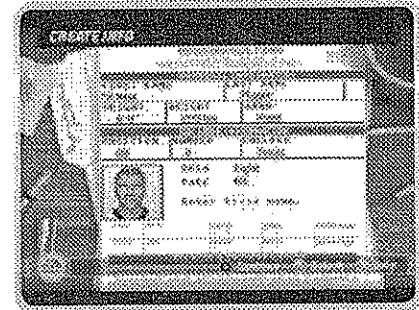
## HISTORIC TEAMS

Back again are Historic Teams. You can play All-Star Teams for each franchise, or dip into some of the greatest teams of all time. You get some right of the box, but others you have to unlock with *Madden Cards*. They allow you to play "what if" type games. Go back in time and play some of the greatest games ever. The players do not have their actual names, but you can edit them if you want optimum realism.



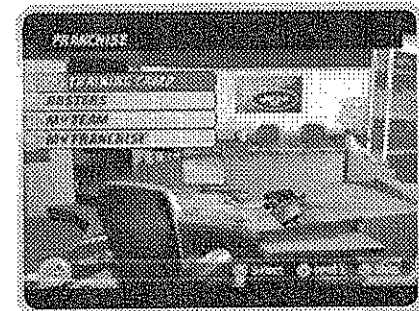
## NFL SUPERSTAR MODE

This is your chance to become a living legend and be enshrined in the Hall of Fame forever. You can create your player, customize his look, and then take him from the NFL Draft to superstardom. See the NFL Superstar section for a complete breakdown of this game mode.



## FRANCHISE MODE

Take control of every aspect of your franchise. You are the Owner, General Manager, Coach and Player all rolled into one. You manage everything from the price of hot dogs to which player your team will take as the number one draft pick. Play through 30 seasons as you lead your franchise to the championship. See the Franchise section for a complete breakdown of this game mode.



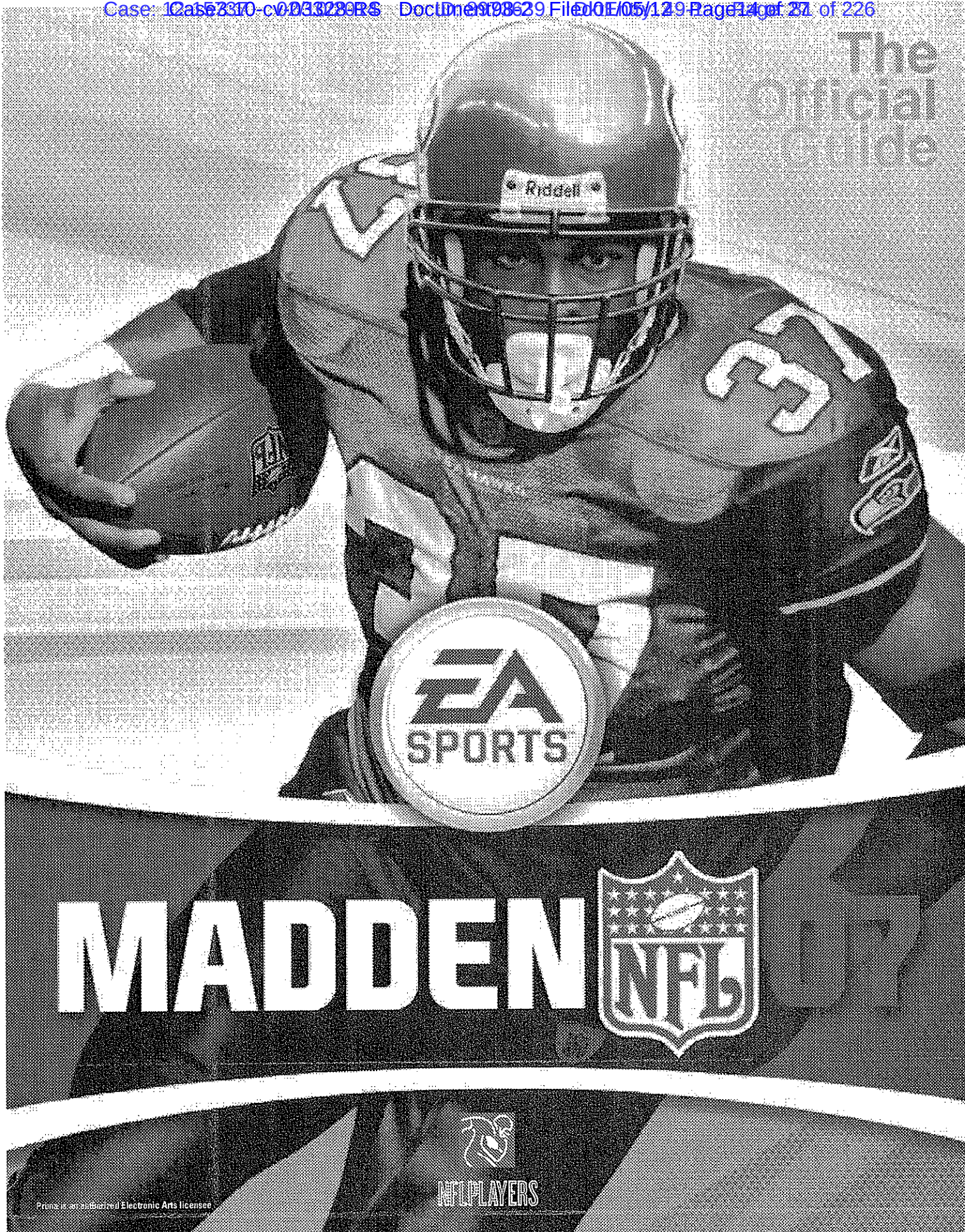
## FANTASY CHALLENGE

Leverage your Fantasy Football knowledge by drafting the ultimate NFL dream team. Play through four competition levels with your fantasy squad in hope of winning challenges, increasing your salary cap, and adding new superstars to your team.



GAME MODES

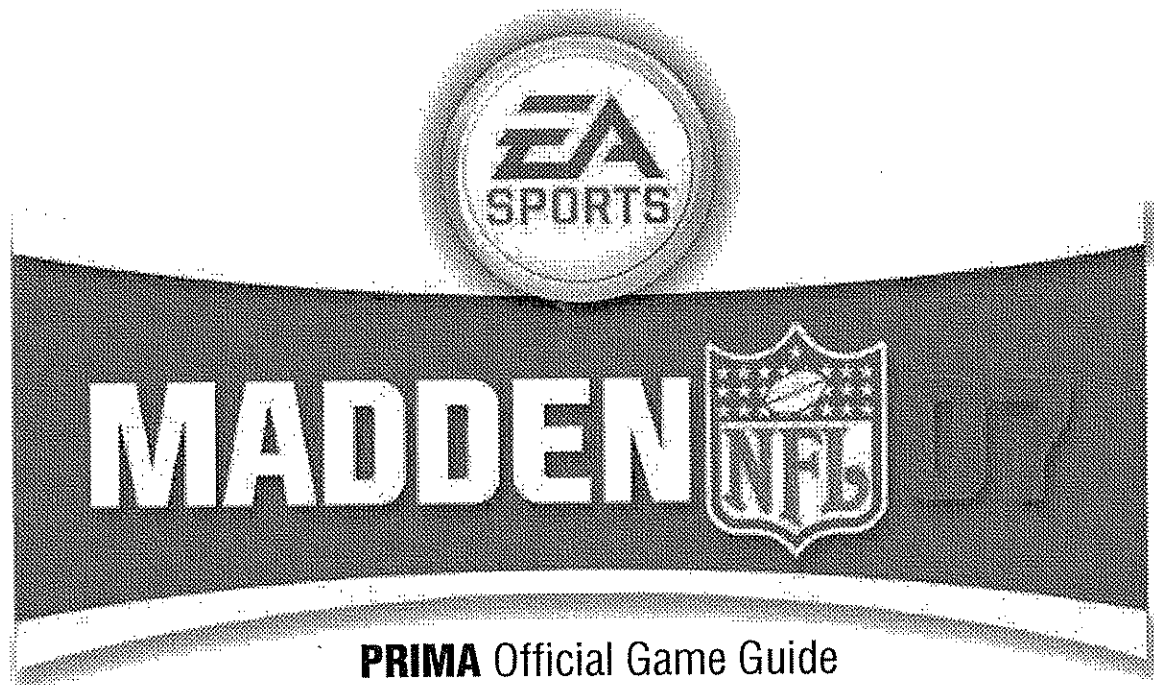




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**Layout & Production:** Craig Keller & Hg

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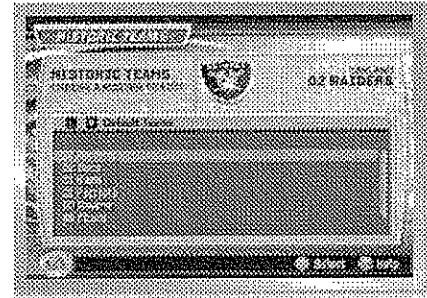
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## Historic Teams

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## NEW FEATURES

### Gameplay

- **Run to Daylight New Blocking Control**
- **Highlight Stick**
- **User-Controlled Broken Tackles**
- **Preplay Menu**
- **User Feedback**
- **Spectacular Catches**
- **Throw Ball Away**

Take control of the blockers and pave the way for your running back.

Bust the tackle or duck and jump the defender all together.

The user is given more control to try to get that extra yard.

Now EA SPORTS gives you visual hints on the screen to help you with your preplay selections.

New banners overlay the gameplay to keep you up to speed with key moments in the game.

Players with high ratings can unlock special catches.

All new mechanic allows you to dump the ball while still in the pocket.

### NFL Superstar Hall of Fame Mode

- **Superstar Cameras**
- **Hall of Fame Mode**

You now play the game from the perspective of your Superstar player.

Can you become a Hall of Famer? Now you have the chance with new features such as Roles, Ego, and Influence.

### Franchise

- **Roles**
- **New NFL Draft Additions**

Special roles allow your player to influence his team and make the players around him better.

Including a College All-Star Game, New Scouting System, and Intelligent Off-season Cut logic.

### Other New Features

- **Unlockable Hall of Fame Teams**
- **Online Clubs**
- **Team Specific Defensive Playbooks**

You can unlock AFC and NFC Hall of Fame teams to play with in Play Now mode.

TBA

All new playbooks for *Madden NFL 07*. Teams now have playbooks based on the plays they run on defense in real life.

MODES & FEATURES



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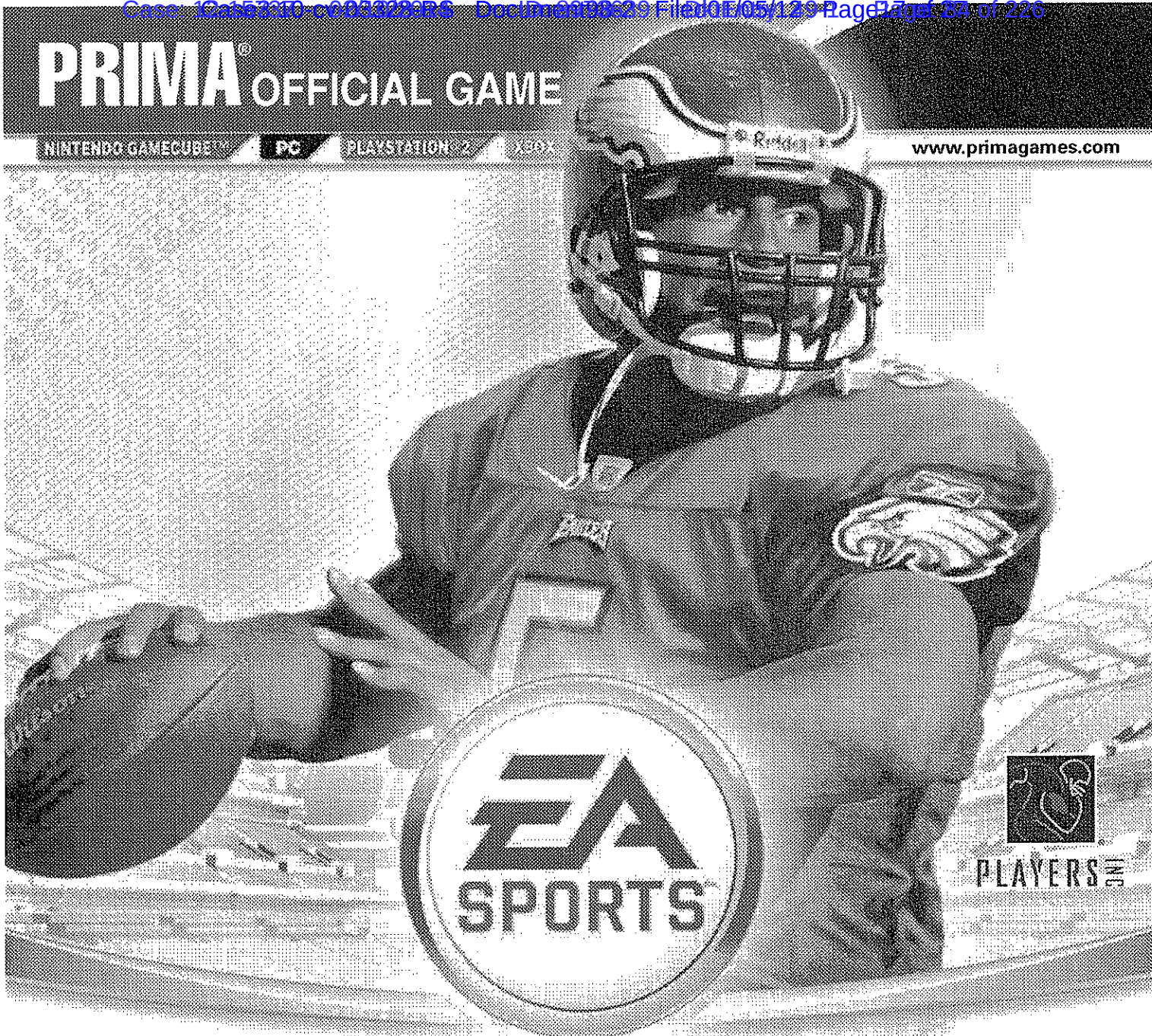
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Game Experience May Change During Online Play.

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**Prima Editors:** Fernando Bueno, Alaina Yee



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**Created By:** Kaizen Media Group™

**President:** Howard Grossman

**Writers:** Super Fans

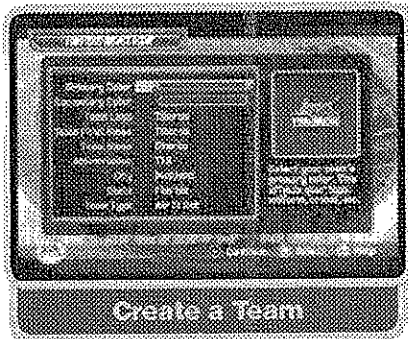
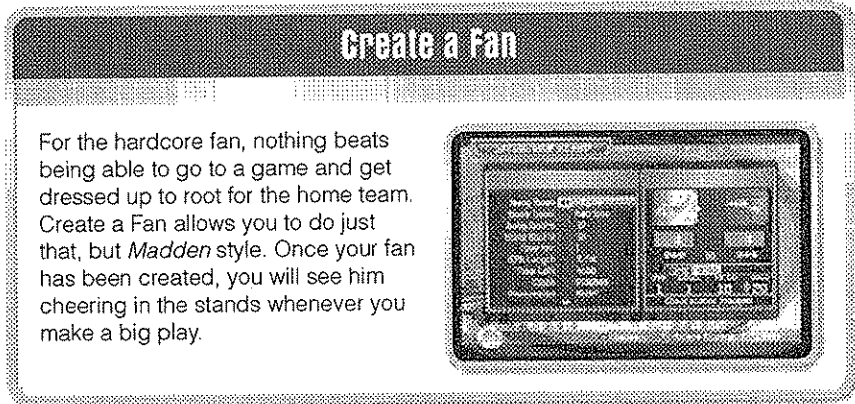
**Designer:** Tim Davis

**Production Assistance:** Mike Vallas, Holly Hamilton

**Special Thanks to:** Jeff Barton, Paul Giacomotto, and Donato Tica



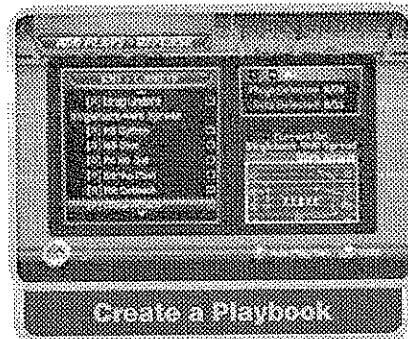
stand a chance in the NFL. If you want to make your player an elite player, set all his attributes to 99. Keep in mind that if he's that good, he has nowhere to go but down and it won't be much fun trying to make him a top notch player—he's already there. We like to create our player with an overall rating of around 75 to 80 and watch him grow over several seasons.



Just like *Madden NFL 2005*, you can create your own team in *Madden NFL 06*. If you want, create a team from the area you live in by choosing a new name, team logo, style of ball club you want, and climate.

Once that's all done, create a stadium for your team to play in. Build your new stadium from the ground level up. At the Stadium screen, add tunnels, extra seats, and either an open or closed roof.

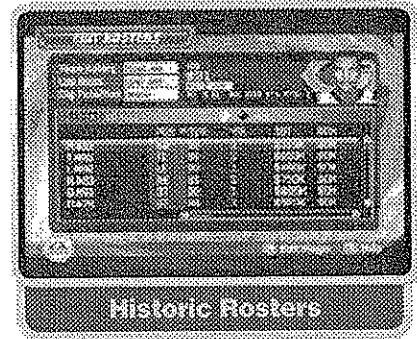
When your new stadium has been built, it's time to create your team's uniform. You can come up with wild color schemes, so get crazy with your teams uniform and open the eyes of other NFL owners.



Have you ever wanted to be a NFL offensive or defensive coordinator? Well you can be one by going into Create a Playbook mode and drawing up your very own formations and plays.

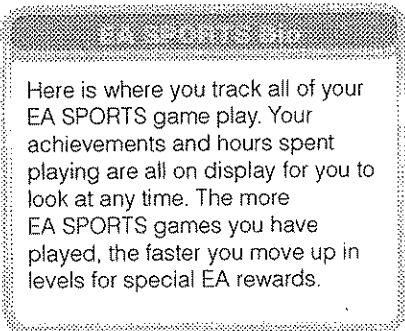
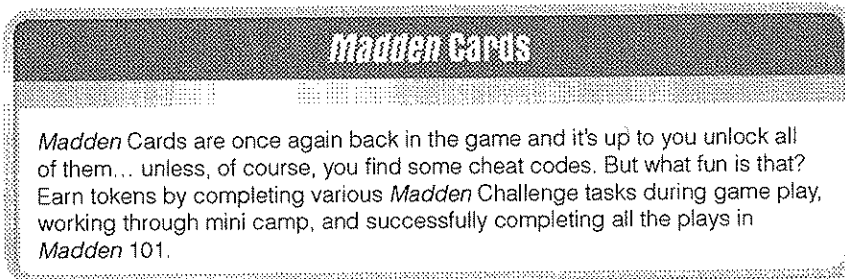
Set your formations and plays on a grid by moving players around. Once you get them assigned to where you want them, give them their play assignments.

After you are done creating your masterpiece, go test it out on the field against an offense or defense that is randomly picked by the CPU. If you spot something that doesn't fit or doesn't work to your liking, you can go back and change it. Once you feel comfortable with your adjustments, save it again and exit the Create a Playbook menu.



Historic Rosters are back again. They allow you to play "what if"-type games. For instance, you can replay the '78 Dallas Cowboys vs the '78 Steelers in Super Bowl XIII. Just select the teams and away you go back in time to play the game. The players do not have their actual names, but you can edit them if you want optimum realism.

MODES & FEATURES




Here is where you track all of your EA SPORTS game play. Your achievements and hours spent playing are all on display for you to look at any time. The more EA SPORTS games you have played, the faster you move up in levels for special EA rewards.



# EXHIBIT 8























# MADDEN NFL 12

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**Madden 08 Historical Rosters**

Madden NFL Series > Madden Wii

Author	Message
 10/17/2008 14:35:01 <b>Subject:</b> Madden 08 Historical Rosters	
<b>Gaedel</b> Joined: 10/17/2008 16:27:13 Messages: 5 Offline  Profile  pm	<p>I just picked up Madden 08 for the Wii and played my first game. I chose one of the historical rosters and there are no player names, they just have #2, #6, etc. The uniform numbers aren't even correct historically.</p> <p><u>Is there a way to edit the player names and uniform numbers so we can get it right?</u></p>
 10/17/2008 16:14:16 <b>Subject:</b> Re: Madden 08 Historical Rosters	
<b>rigsc</b> Joined: 01/27/2008 18:38:38 Messages: 448 Offline  Profile  pm	<p>Funny you ask this because I had just recently stumbled across an article that talks about this very same topic:</p> <p><a href="http://www.profootballtalk.com/2008/10/05/union-allegedly-advised-ea-to-scramble-historic-players/">http://www.profootballtalk.com/2008/10/05/union-allegedly-advised-ea-to-scramble-historic-players/</a></p> <p><u>Basically EA gets out of having to pay royalties to former players by changing their names and numbers.</u></p> <p><i>This message was edited 1 time. Last update was at 10/17/2008 16:15:23</i></p>
 10/17/2008 16:15:41 <b>Subject:</b> Re: Madden 08 Historical Rosters	
<b>Gaedel</b> Joined: 10/17/2008 16:27:13 Messages: 5 Offline  Profile  pm	<p>Thank you for the information.</p> <p><u>Is there a way to change the names and numbers manually on the Wii?</u></p>
 10/17/2008 16:24:19 <b>Subject:</b> Re: Madden 08 Historical Rosters	
<b>mikew</b> Joined: 12/12/2007 16:54:52 Messages: 2186 Offline  Profile  pm	<p><u>by edit player, and its just wii, on madden it dosent deserve the capitals</u></p>
 10/20/2008 10:31:03 <b>Subject:</b> Re: Madden 08 Historical Rosters	
<b>Gaedel</b>	<p>I still can't figure out how to edit historical players. Would someone be able to post detailed instructions or let me know if it's even possible? I can edit regular players, just not historical.</p>



Joined: 10/17/2008

16:27:13

Messages: 5

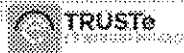
Offline

[Profile](#) [pm](#)[Madden NFL Series](#) > [Madden Wii](#)Go to: **Popular Platforms**[PC Games](#)[Wii](#)[Xbox 360](#)[PS3](#)[iPhone](#)[iPad](#)[Mobile](#)**Popular Genres**[Racing](#)[Shooting](#)[Puzzle](#)[RPG](#)[Kids](#)[Strategy](#)[Simulation](#)[Sports](#)**EA.com**[Video Game News](#)[Search Games](#)[Register My Game](#)[Investor Relations](#)**Help**[Customer Support](#)[Online Service Updates](#)[Patches & Updates](#)[Forums](#)[Billing FAQ](#)**Highlighted Game****Dragon Age Legends***Facebook*

Be Legendary! Dragon Age Legends is the first real game on Facebook. Enjoy this epic, free online RPG adventure game from BioWare and EA2D. Battle demons and darkspawn with your friends, earn loot a...

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# EXHIBIT 9



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# MADDEN NFL 12

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## M-09 Historic Team Rosters - Can they be updated?

Madden NFL Series > Madden General Discussion

Author	Message
12/29/2008 05:40:49	Subject: M-09 Historic Team Rosters - Can they be.

vintagebordeaux...

The historic team rosters on my Madden 09 for Wii are terrible. They have starting players with numbers that weren't on the real teams. Can this be fixed with an update?

Joined: 12/26/2008 14:27:11

Messages: 4

Offline

Profile 3: pm

12/28/2008 16:31:42	Subject: Re: M-09 Historic Team Rosters - Can they be.
---------------------	--

DawkinsEffect

no not at all

Joined: 08/27/2005 00:26:58

Messages: 6899

Offline

Profile 3: pm

12/28/2008 19:42:28	Subject: Re: M-09 Historic Team Rosters - Can they be.
---------------------	--

CharlieH81



No. You have to edit the Rosters yourself. All the real players are there, but legally they can't use the correct jersey numbers of the players because then they would have to pay those players. They had a problem with that one year where there was a HB on one of the historic Browns teams with #32. Jim Brown found out about this, said "hey that guy looks like me and has my number" and wanted to get paid for his likeness being used.

There are websites out there you can subscribe to that will give you all the real names and Jersey numbers for all the historic player teams. Just do an online search.

Joined: 08/25/2006 22:26:23

Messages: 3299

Location: Dallas, TX

Offline

It's just like when Michael Jordan didn't allow his likeness to be used in video games, so all the NBA games would just have "Roster #23" and have a generic awesome player in his place.

check this out:

<http://www.youtube.com/historicgamerosters>

it may interest you.


This message was edited 1 time. Last update was at 12/28/2008 19:45:06

Profile 3: pm



12/28/2008 20:24:51 Subject: Re: M-09 Historic Team Rosters - How do  
robj44  
How do you access historical teams??? I always could plainly access them on PS3 Madden 08 but the 09 for my PS3 has really poor menu options and controls and the least little task seems convoluted. I'd love to access the historical teams to see what's available.  
Joined: 12/28/2008 22:23:17  
Messages: 1  
Offline  
[Profile](#) [pm](#)


---


12/28/2008 20:32:04 Subject: Re: M-09 Historic Team Rosters - How do  
CharlieH&1  
they aren't on the next gen for some reason.  
  
Joined: 08/25/2008 22:26:23  
Messages: 3299  
Location: Dallas, TX  
Offline  
[Profile](#) [pm](#)

---

[Madden NFL Series](#) > [Madden General Discussion](#)

Go to:



<b>Popular Platforms</b> <a href="#">PC Games</a> <a href="#">Wii</a> <a href="#">Xbox 360</a> <a href="#">PS3</a> <a href="#">iPhone</a> <a href="#">iPad</a> <a href="#">Mobile</a>	<b>Popular Genres</b> <a href="#">Racing</a> <a href="#">Shooting</a> <a href="#">Puzzle</a> <a href="#">RPG</a> <a href="#">Kids</a> <a href="#">Strategy</a> <a href="#">Simulation</a> <a href="#">Sports</a>	<b>EA.com</b> <a href="#">Video Game News</a> <a href="#">Search Games</a> <a href="#">Register My Game</a> <a href="#">Investor Relations</a>	<b>Help</b> <a href="#">Customer Support</a> <a href="#">Online Service Updates</a> <a href="#">Patches &amp; Updates</a> <a href="#">Forums</a> <a href="#">Billing FAQ</a>	<b>Highlighted Game</b>  <b>Dragon Age Legends</b> <i>Facebook</i> Be Legendary! Dragon Age Legends is the first real game on Facebook. Enjoy this epic, free online RPG adventure game from BioWare and EA2D. Battle demons and darkspawn with your friends, earn loot a...
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# EXHIBIT 10

EXHIBIT 10



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- EA SPORTS
- EA Mobile
- POGO.com

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## Madden Historic Rosters

Madden NFL Series > Madden General Discussion

Author	Message
10/11/2008 11:31:53	Subject: Madden Historic Rosters
<b>gilbertcb</b>	Opening Note: Every time I post on this forum the programmers never respond. So I will try yet again to get an answer from them:  For the Programmers of the Madden Series: If you have not put in the historic teams in Madden 2009 PS3 version I have to ask why the HELL not. This was a great feature of the older versions of the game. I LOVED playing the great super bowl teams from the past. I would input the player names and it would be just be plain fantastic playing with those great teams. One version I think Madden 2002 actually let you play any of the historic teams in season mode. That was sweat. For some strange reason you have dropped this. I would really like to know why?  Dear Programmers: If you actually ever read these can you just answer the simple question of WHY!!!!!! Is it too much to put the all-great teams and super bowl teams of the past in the freakin PS3 version of the game. I doubt it would take up much room on the game.
Joined: 01/29/2008 18:36:54 Messages: 5 Offline	

10/11/2008 11:56:20 Subject: Re: Madden Historic Rosters

**GatorChomp2013** I agree.

Joined: 08/07/2008  
19:18:06  
Messages: 160  
Offline

03/04/2009 09:42:50 Subject: Re: Madden Historic Rosters

YES,YES,YES,YES!!!!!!PLEASE BRING BACK THE HISTORIC TEAMS!!!!!! HAVE THE 360 AND WITH TODAYS GRAPHICS AND GAMEPLAY, THE OPTION TO REPLAY SUPERBOWLS AND CONFERENCE CHAMPIONSHIPS



# EXHIBIT 12



Volume 1

Pages 1 - 64

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE DONNA M. RYU, MAGISTRATE JUDGE

MICHAEL E. DAVIS, et al.,	)	
	)	
Plaintiffs,	)	
	)	
VS.	)	NO. C 10-03328 RS (DMR)
	)	
ELECTRONIC ARTS, INC.,	)	
	)	San Francisco, California
Defendant.	)	Wednesday
	)	November 16, 2011
	)	2:03 p.m.

TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

For Plaintiffs: THOMAS WHITELAW  
Three Embarcadero Center  
Suite 1350  
San Francisco, California 94111-4037  
BY: BRIAN D. HENRI, ESQ.

For Defendant: KEKER & VAN NEST  
633 Battery Street  
San Francisco, California 94111-1809  
BY: ADAM LAURIDSEN, ESQ.  
JAMES SLAUGHTER, ESQ.

Reported by: BELLE BALL, CSR #8785, RMR, CRR  
Official Reporter, U.S. District Court



1 There may or may not be a sufficient production; I don't know  
2 yet. Electronic Arts' process was not transparent enough for  
3 me to really glean from the joint letter, so I'm going to have  
4 some questions.

5 And let me say, preliminarily, that there doesn't  
6 appear that there was a lot of meeting and conferring about the  
7 process on topics like search terms, or quality assurance,  
8 custodians, sources, and those kinds of things. I'm not  
9 putting the blame on either side. I can see through the letter  
10 that there was some dispute about why that didn't happen.

11 I just want to say, going forward, assuming this case  
12 sticks around, there has to be meeting and conferring at that  
13 kind of level because, otherwise, we get into these kinds of  
14 problems that really probably could have been headed off, and  
15 your clients end up spending more money, and you all spend more  
16 time that you could be spending on other things.

17 So, let me ask you, Mr. Lauridsen, about the  
18 production of the three requests for production, 33, 34 and 82.

19 **MR. LAURIDSEN:** Yes.

20 **THE COURT:** So, could you please describe your  
21 process for responding to those particular requests.

22 **MR. LAURIDSEN:** Absolutely. To understand the full  
23 process, it's important to understand what part of the game  
24 we're talking about here. Madden NFL is a game that's issued  
25 annually, so there's 2008, 2009, 2010 versions. The versions



1 at issue in this case are 2008, 2009.

2       Within Madden NFL there are a variety of different  
3 types of games you can play. The main selling point of the  
4 game is the current teams. So whatever teams are on the field  
5 for that football season have teams represented in the game.

6       An additional feature of the game is what's known as  
7 the classic teams. The classic teams are a limited number of  
8 teams that are sort of added as a bonus feature to the game  
9 that allow you to play, say, the 1988 Forty-Niners as a team  
10 within the game. The Plaintiffs in this case involve the  
11 classic teams, so it's only that one segment of the game.

12       So what we did to collect documents in this case is,  
13 we identified the custodians that were involved in the design  
14 of the 2008 and 2009 versions of the game, and we identified  
15 the databases, which are huge databases that contain all of the  
16 design documents for those versions of the game.

17       We then created keywords, and we searched both the  
18 custodians' and the design databases with the keywords to try  
19 to identify responsive documents.

20       Is there further clarification I could provide?

21       **THE COURT:** Yes. Once you got your universe of  
22 responsive documents through that process, did you then cull  
23 any further by deciding what was essential to the response?

24       **MR. LAURIDSEN:** We didn't cull, based on what was  
25 essential. We culled, based on what was responsive. And, let



1           **THE COURT:** For the custodians, how -- how far back  
2 did you go?

3           **MR. LAURIDSEN:** It varied from custodian to  
4 custodian, based upon when they were employed, when their  
5 documents stretched back to.

6           But Jeremy Strauser, for example, one of the  
7 custodians that I think both sides will agree has documents  
8 produced in this case, we were able to go back to 2001 in the  
9 e-mails and custodian documents collected.

10          **THE COURT:** Okay. So with respect to the design  
11 custodians, Electronic Arts did not limit its search for  
12 responsive documents except to the extent that somebody wasn't  
13 there for some period of time.

14          **MR. LAURIDSEN:** Exactly, or they didn't have the  
15 documents. Whatever we were able to collect from that  
16 individual, we did. We put no further constraint on that.

17          **THE COURT:** Now, on the design databases, EA only  
18 searched for the '08 and '09 games.

19          **MR. LAURIDSEN:** Correct, Your Honor.

20          **THE COURT:** Okay. So let's talk about that.

21          Mr. Henri, I know that Plaintiffs have an argument  
22 that Electronic Arts should go back further than that, so let  
23 me hear your argument.

24          **MR. HENRI:** Sure. There are several arguments for  
25 that.



1 This Court is now in session, the Honorable Donna M. Ryu  
2 presiding.

3 Recalling Civil Case C-10-3328 RS, Michael Davis  
4 versus Electronic Arts, Incorporated.

5 Counsel, please restate your appearances.

6 **MR. LAURIDSEN:** Adam Lauridsen for Defendant  
7 Electronic Arts.

8 **MR. HENRI:** Brian Henri for the Plaintiffs, Michael  
9 Davis, Vince Ferragamo, and Billy Joe DuPree.

10 **MR. LAURIDSEN:** Thank you for having us back, Your  
11 Honor.

12 We have reached an agreement we would like to put on  
13 the Record.

14 **THE COURT:** That is great.

15 **MR. LAURIDSEN:** Initially, just to orient you, we  
16 have divided the documents into two categories like we  
17 discussed before, the design documents and the custodian  
18 documents.

19 For the design documents, to reduce the burden to EA,  
20 we are going to find the most current version for each year of  
21 the player information spreadsheet. This is a document that we  
22 produced for the '08 and '09 versions, which contains  
23 information regarding all the player characteristics. It's the  
24 one with the 15,000 players per game.

25 We are going to search for the most current version



1 of that for each game edition, and produce that to Plaintiff,  
2 for the range of games in your order. That's what we're going  
3 to do for the design documents.

4 For the custodian documents and for the other new  
5 categories of documents that Your Honor has ordered for us to  
6 search, we are going to search the existing search terms, with  
7 some slight modifications.

8 For the terms starting with "scrambling," "alter" or  
9 "transform," we are going to search within 30, instead of  
10 within 20. For the name search terms, we are going to search  
11 within two, instead of within five, to eliminate some of the  
12 false hits.

13 We are also adding some additional search terms that  
14 will be used on the custodian documents and the new categories  
15 of documents that Your Honor has ordered. I'll try to explain  
16 these as simply as possible.

17 We are going to search variations on the word  
18 "scramble" within 30; of the word "historic" within 30; of the  
19 word "number" or "name"; then again, "scramble" within 30 of  
20 "all-time," within 30 of "number" or "name"; and "scramble"  
21 within 30 of "classic," within 30 of "number" or "name."

22 We are then going to run those same searches for the  
23 "alter" and "transform" words that were used in the previous  
24 searches.

25 That's it, Your Honor.



# EXHIBIT 13



Table of Contents

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION**  
**Washington, D.C. 20549**

**Form 10-K**

- ☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended March 31, 2011

OR

- ☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File No. 000-17948

**ELECTRONIC ARTS INC.**

*(Exact name of registrant as specified in its charter)*

**Delaware**

*(State or other jurisdiction of  
incorporation or organization)*

**94-2838567**

*(I.R.S. Employer  
Identification No.)*

**209 Redwood Shores Parkway**

**Redwood City, California**

*(Address of principal executive offices)*

**94065**

*(Zip Code)*

**Registrant's telephone number, including area code:**

**(650) 628-1500**

**Securities registered pursuant to Section 12(b) of the Act:**

<u>Title of Each Class</u>	<u>Name of Each Exchange on Which Registered</u>
Common Stock, \$0.01 par value	NASDAQ Global Select Market

**Securities registered pursuant to Section 12(g) of the Act:**

None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☐ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§ 229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☒

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer ☒ Accelerated filer ☐ Non-accelerated filer ☐ Smaller reporting company ☐

*(Do not check if a smaller reporting company)*

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐



## **Table of Contents**

Blizzard, Atari, NC Soft, and Sony. Competing providers of other kinds of online games include AOL, Big Fish, MSN, Nexon, Popcap, Real, Yahoo!, and Zynga and other providers of games on social networking platforms such as Facebook.

## **Intellectual Property**

Like other entertainment companies, our business is based on the creation, acquisition, exploitation and protection of intellectual property. Some of this intellectual property is in the form of software code, patented technology, and other technology and trade secrets that we use to develop our games and to make them run properly. Other intellectual property is in the form of audio-visual elements that consumers can see, hear and interact with when they are playing our games – we call this form of intellectual property “content.”

We develop games from wholly-owned intellectual properties we create within our own studios and obtain through acquisitions. In addition, we obtain content and intellectual property through licenses and service agreements such as those with sports leagues and players’ associations, movie studios and performing talent, authors and literary publishers, music labels, music publishers and musicians. These agreements typically limit our use of the licensed rights in products for specific time periods. In addition, our products that play on game consoles, handhelds and mobile devices include technology that is owned by the console or mobile device manufacturer and licensed non-exclusively to us for use. We also license technology from providers other than console and mobile device manufacturers. While we may have renewal rights for some licenses, our business and the justification for the development of many of our products is dependent on our ability to continue to obtain the intellectual property rights from the owners of these rights on reasonable terms.

We actively engage in enforcement and other activities to protect our intellectual property. We typically own the copyright to the software code, as well as the brand or title name trademark under which our products are marketed. We register copyrights and trademarks in the United States and other countries as appropriate.

As with other forms of entertainment, our products are susceptible to unauthorized copying and piracy. We typically distribute our PC products using copy protection technology, digital rights management technology or other technological protection measures to prevent piracy and the use of unauthorized copies of our products. In addition, console manufacturers typically incorporate technological protections and other security measures in their consoles in an effort to prevent the use of unlicensed product. We are actively engaged in enforcement and other activities to protect against unauthorized copying and piracy, including monitoring online channels for distribution of pirated copies, and participating in various industry-wide enforcement initiatives, education programs and legislative activity around the world.

## **Significant Relationships**

### ***Console Manufacturers***

*Sony* . Under the terms of agreements we have entered into with Sony Computer Entertainment Inc. and its affiliates, we are authorized to develop and distribute disk-based software products and online content compatible with the PlayStation 2, PLAYSTATION 3 and PSP. Pursuant to these agreements, we engage Sony to supply PlayStation 2, PLAYSTATION 3 and PSP disks for our products.

*Microsoft* . Under the terms of agreements we have entered into with Microsoft Corporation and its affiliates, we are authorized to develop and distribute DVD-based software products and online content compatible with the Xbox 360.

*Nintendo* . Under the terms of agreements we have entered into with Nintendo Co., Ltd. and its affiliates, we are authorized to develop and distribute proprietary optical format disk products and cartridges and online content compatible with the Wii and the Nintendo DS and 3DS. Pursuant to these agreements, we engage Nintendo to supply Wii proprietary optical format disk products and Nintendo DS and 3DS cartridges for our products.



# EXHIBIT 15

EXHIBIT 15

SER 101



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Attorneys for Defendants National Football League Players Association  
 and National Football League Players Incorporated d/b/a Players Inc

**UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION**

BERNARD PAUL PARRISH, HERBERT  
 ANTHONY ADDERLEY, WALTER  
 ROBERTS III,

Plaintiffs,

v.

NATIONAL FOOTBALL LEAGUE  
 PLAYERS ASSOCIATION and NATIONAL  
 FOOTBALL LEAGUE PLAYERS  
 INCORPORATED d/b/a/ PLAYERS INC,

Defendants.

Case No. C 07 0943 WHA

**DECLARATION OF JEFFREY  
 KESSLER IN SUPPORT OF  
 DEFENDANTS' LETTER BRIEF TO  
 THE COURT DATED AUGUST 1,  
 2008**



**DECLARATION OF JEFFREY KESSLER**

I, Jeffrey Kessler, hereby declare as follows:

1. I am an attorney with Dewey & LeBoeuf LLP, attorneys for Defendants National Football League Players Association ("NFLPA") and National Football League Players Incorporated d/b/a Players Inc ("Players Inc") in this action. I am a member of the bar of the State of New York and my *pro hac vice* application in this matter was granted by the Court on February 28, 2007. I make this Declaration in support of Defendants' Letter Brief to the Court, dated August 1, 2008. I have personal knowledge of each of the facts stated herein, and if called to testify, could and would testify completely hereto.

2. Attached hereto as Exhibit 1 is a true and correct copy of a license agreement between Electronic Arts Inc. and Players Inc, dated January 20, 2000, bearing bates numbers PI132982-PI132992 ("2000 EA Agreement").

3. Attached hereto as Exhibit 2 is a true and correct copy of an addendum, dated July 5, 2000, to the 2000 EA Agreement bearing bates numbers PI000128-000132.

4. Attached hereto as Exhibit 3 is a true and correct copy of excerpts from the transcript of the deposition of Joel Linzner, taken on February 8, 2008.

5. Attached hereto as Exhibit 4 is a true and correct copy of a license agreement between Electronic Arts Inc., Electronics Arts C.V., the National Football Museum Inc. (d/b/a the Pro Football Hall of Fame) and Players Inc, dated April 25, 2006, bearing bates numbers PI000100-PI000110.

6. Attached hereto as Exhibit 5 is a true and correct copy of a letter, dated October 27, 2005, from John Bankert, President, Pro Football Hall of Fame, bearing bates number PI126889.

7. Attached hereto as Exhibit 6 is a true and correct copy of excerpts from the transcript of the deposition of Adam Zucker, taken on April 4, 2008.

8. Attached hereto as Exhibit 7 is a true and correct copy of excerpts from the transcript of the deposition of Warren Friss, taken on April 4, 2008.



1 9. Attached hereto as Exhibit 8 are true and correct copies of screenshots from  
2 the Madden NFL 2007 video game of the 1984 49ers team.

3 10. Attached hereto as Exhibit 9 is a true and correct copy of Exhibit 3 to the  
4 reply report of Plaintiffs' expert Philip Y. Rowley, dated June 27, 2008.

5 11. Attached hereto as Exhibit 10 is a true and correct copy of an e-mail chain  
6 between Ryan Hilbert, Esq. of Manatt, Phelps & Phillips, LLP and Jeffrey Kessler and David  
7 Greenspan of Dewey & LeBoeuf LLP, copying others, dated May 20, 2008.

8 12. Attached hereto as Exhibit 11 is a true and correct copy of a letter, dated  
9 March 28, 2008, from Roy Taub of Dewey & LeBoeuf LLP.

10 13. Attached hereto as Exhibit 12 is a true and correct copy of the proposed Order  
11 Regarding Plaintiffs' Discovery Motion, dated August 29, 2007.

12 14. Attached hereto as Exhibit 13 is a true and correct copy of the Order Adopting  
13 In Part Proposed Order Regarding Plaintiffs' Discovery Motion, dated August 29, 2007.

14 15. Attached hereto as Exhibit 14 is a true and correct copy of excerpts from the  
15 transcript of a hearing that took place before this Court on August 17, 2007.

16 16. Attached hereto as Exhibit 15 is a true and correct copy of excerpts from the  
17 transcript of a hearing that took place before this Court on June 11, 2008.

18 17. Attached hereto as Exhibit 16 is a true and correct copy of excerpts from the  
19 transcript of the deposition of Bernard Paul Parrish, taken on March 13, 2008.

20 18. Attached hereto as Exhibit 17 is a true and correct copy of an e-mail from  
21 Bernard Parrish, dated November 7, 2006, bearing bates number CLASS003725.

22 19. Attached hereto as Exhibit 18 is a true and correct copy of an article by Alan  
23 Schwarz titled "Upshaw Maintains Royalties Were Distributed Properly" from the New York  
24 Times, dated February 16, 2007, bearing bates numbers CLASS003005-CLASS003006.

25 20. Attached hereto as Exhibit 19 is a true and correct copy of excerpts from the  
26 transcript of the deposition of Glenn Eyrich, taken on February 12, 2008.

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Dewey & LeBoeuf LLP  
One Embarcadero Center, Suite 400  
San Francisco, CA 94111



1 I declare under penalty of perjury under the laws of the United States of America  
2 that the foregoing is true and correct.

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4 Dated: August 1, 2008

5 /s/ Jeffrey Kessler  
6 Jeffrey L. Kessler  
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Dewey & LeBoeuf LLP  
One Embarcadero Center, Suite 400  
San Francisco, CA 94111



## **EXHIBIT 4**

Case No. C 07 0943 WHA

Parrish v. National Football League Players Association, et al.



### LICENSE AGREEMENT

This Agreement is made and entered into this 25th day of April, 2006, by and among Electronic Arts Inc. ("EA"), a Delaware corporation, with offices at 209 Redwood Shores Parkway, Redwood City, CA 94065 and Electronic Arts C.V. ("EACV"), a Netherlands limited partnership, whose address is Suite 203, 2<sup>nd</sup> Floor, Lauriston House, Lower Collymore Rock, Bridgetown, Barbados (collectively, hereinafter "Licensee"), National Football Museum, Inc. dba THE PRO FOOTBALL HALL OF FAME, a corporation with offices at 2121 George Halas Drive, Canton, Ohio 44708 (hereinafter "HOF") and NATIONAL FOOTBALL LEAGUE PLAYERS INCORPORATED, a corporation with offices at 2021 L Street, N.W., Washington, D.C. 20036 ("Players Inc"). This Agreement shall be effective as of the date of the full execution of this Agreement (the "Effective Date").

#### 1. REPRESENTATIONS.

(A) HOF represents: that it is a non-profit corporation which annually conducts a process for the selection and enshrinement of retired pro football players, coaches and contributors; that it shall use reasonable commercial efforts during the term of this Agreement to secure the right for Licensee to utilize the names and likenesses of the players and coaches who have become enshrined into the Hall of Fame as contemplated herein; that the HOF has been duly appointed to act on behalf of the Hall of Fame-member football players listed on Exhibit A attached hereto (as amended from time to time) (the "Players"), and the Hall of Fame-member coaches listed on Exhibit B attached hereto (as amended from time to time) (the "Coaches"), who authorize HOF from time to time to represent such Players and such Coaches for specific HOF licensed programs; and that in such capacity HOF has the right to negotiate this contract and the right to grant rights and licenses described herein. HOF represents that, unless otherwise expressly set forth on Exhibit A or Exhibit B hereto, as applicable, subject to the terms and conditions of this Agreement, the rights secured for each Player or Coach licensed hereunder shall be secured through March 31, 2010.

(B) Players Inc represents that it is a licensing affiliate of the National Football League Players Association ("NFLPA"); that the NFLPA has been duly appointed and is acting on behalf of the football players of the National Football League who have entered into a Group Licensing Assignment, which have been assigned to Players Inc. Licensee acknowledges that Players Inc also on occasion secures authorization for inclusion in Players Inc licensing programs from players, including but not limited to the HOF Players referenced above and other retired players, who have not entered into such Group Licensing Authorization, but who, nevertheless, authorize Players Inc to represent such players for designated Players Inc licensed programs. In such capacity, Players Inc has granted Licensee certain rights as set forth in a license agreement effective March 1, 2006 (the "Players Inc License Agreement").

#### 2. GRANT OF LICENSE.

(A) Upon the terms and conditions set forth in this Agreement, HOF hereby grants to Licensee and Licensee hereby accepts (i) the non-exclusive right, license and privilege of utilizing the trademarks and names of HOF which may be amended from time to time by HOF in and in connection with the marketing of the licensed products, (ii) the names, likenesses (including, without limitation, numbers), pictures owned by HOF, photographs owned by HOF, facsimile signatures and/or biographical information (hereinafter "identity") of the Players, in Licensee's line of football entertainment software product(s) currently known as "Madden NFL Football" and (iii) the non-exclusive right, license and privilege of utilizing the names, likenesses, pictures, photographs, voices, facsimile signatures and/or



biographical information (hereinafter "identity") of the Coaches, in Licensee's line of football entertainment software product(s) currently known as "NFL Head Coach"; in the form of video and computer football simulation (Madden NFL Football) and manager games (NFL Head Coach), respectively, for: current and successor game console platforms developed by Sony, Nintendo, and Microsoft; personal computers and Apple computers; Nokia N-Gage and its cartridge-based successors; arcade units; Pocket PC and Palm products and other handhelds using a Palm or similar operating system; Linux computers and handheld systems; Internet and online; wireless/mobile gaming devices; personal gaming devices GameBoy, GameBoy Advanced, PlayStation Portable, and Nintendo DS and their successors; and any new platforms that may emerge to compete with any of the foregoing during the term of this Agreement (collectively, hereinafter referred to as "the licensed product(s)" and which shall include all features and functionality that enable or enhance gameplay through player/network connectivity but shall not include interactive television). For the avoidance of doubt, "Madden NFL Football" and "NFL Head Coach" licensed products may include fantasy football games only to the extent that such fantasy football games are an element of such licensed products. For the avoidance of doubt, Licensee shall also have the right to create and exploit other wallpaper, and animated images based upon the "Madden NFL Football" and "NFL Head Coach" licensed products. The specific manner in which the rights licensed hereunder are to be used on the licensed product(s) in question shall require the prior written approval of HOF as provided in Section 9 below.

(B) The rights, licenses and privileges granted by HOF hereunder shall not constitute or be used by Licensee as a testimonial or an endorsement of any product, service, or event by all or any of the Players, Coaches, or by HOF. In the event Licensee is interested in securing an individual Player's or Coach's personal endorsement, Licensee further agrees and acknowledges that such endorsement will require the personal approval of the individual Player or Coach and the execution of a separate license agreement or amendment hereto as the parties shall mutually agree. Licensee may contact any individual Player, Coach or such individual's agent solely for the purposes of promoting Licensee's products or services and/or to indicate Licensee's interest in securing a Player's or Coach's endorsement and/or services related to the respective licensed products authorized hereunder; provided, however, that all negotiations for such endorsement and/or services shall be conducted solely through Players Inc and HOF and any contract for player's or coach's endorsement and/or services will be entered by Licensee with Players Inc and HOF.

(C) HOF agrees that nothing herein shall be deemed to prevent Licensee from working to secure separately through Players Inc the right to incorporate any individual Player or Coach enshrined into the Hall of Fame whose rights have not been secured by HOF, following HOF's good-faith efforts to do so; provided that Licensee agrees that it shall not pay any such Player or Coach a higher cash payment for collective-use rights of the same scope as provided under this Agreement than Players Inc and/or HOF has paid the other Players and Coaches secured hereunder. In such event, Licensee shall so notify HOF of its intention to work to secure such rights separately and HOF agrees to provide any reasonable cooperation in such efforts as reasonably requested by Licensee.

3. TERRITORY AND DISTRIBUTION. Licensee shall have the right to utilize the rights granted hereunder for distribution of the licensed product(s) worldwide.

4. TERM.

(A) The term of this Agreement shall extend from the Effective Date to March 31, 2010, unless terminated in accordance with the provisions hereof. The period of time from the Effective Date through March 31, 2007 shall be referred to as the "First License Period". The period of time from April 1, 2007 through March 31, 2008 shall be referred to as the "Second License Period". The period of time from



April 1, 2008 through March 31, 2009 shall be referred to as the "Third License Period". The period of time from April 1, 2009 through March 31, 2010 shall be referred to as the "Fourth License Period". Each year of the term may be referred to as a "License Period".

#### 5. PAYMENT.

(A) EA shall pay Players Inc on behalf of HOF a one-time, flat-fee payment of (i) \$400,000 for its use of the rights licensed hereunder for the First License Period, plus the amount of \$2,000 per newly elected Player or Coach enshrinee added by HOF during the 2006 calendar year (provided that, should HOF succeed in obtaining the rights to any additional enshrines that were elected during the 2005 calendar year or before, the parties agree that payments with respect to such additional enshrines would be deemed to be included in the initial \$400,000 payment); (ii) a one-time, flat-fee payment of \$400,000 for the Second License Period, plus the amount of \$2,000 per newly elected Player or Coach enshrinee added by HOF during the Second License Period; a one-time, flat-fee payment of \$400,000 for the Third License Period, plus the amount of \$2,000 per newly elected Player or Coach enshrinee added by HOF during the Third License Period; and a one-time, flat-fee payment of \$400,000 for the Fourth License Period, plus the amount of \$2,000 per newly elected Player or Coach enshrinee added by HOF during the Fourth License Period. Such payments shall be due and payable as of April 1 of each License Period (or within 30 days of EA's receipt of the appropriate HOF invoice, with respect to the any additional enshrines added during the respective License Period).

(B) Such flat fee payments shall be made by Licensee as specified herein whether or not Licensee uses the rights licensed hereunder, and no part of such payments shall be repayable to Licensee.

6. PAYMENT, INTEREST AND NOTICES: All payments, and all notices, approvals and other communications, shall be sent to or made payable in the name of National Football League Players Incorporated, or its assignee where applicable. In addition to all other rights contained in this Agreement, HOF shall be entitled to collect and Licensee shall pay daily interest at the rate of one and one-half percent (1 1/2%) monthly, or the maximum interest permitted by law if less, on all payments not timely made by Licensee. All correspondence, notices, approvals and other communications to Licensee shall be with Joel Linzner, EVP Business and Legal Affairs with a copy to General Counsel at the same address.

#### 7. INDEMNIFICATION.

(A) Licensee agrees that it will not during the term of this Agreement, or thereafter, attack the rights of HOF in and to the trademarks or names owned by or licensed to HOF or any of the rights licensed hereunder as specified in Paragraph 2 of this Agreement, or in any way attack the validity of this Agreement.

(B) Licensee further agrees to assist HOF to the extent necessary in the procurement of any protection or to protect any of the rights conveyed hereunder, and HOF, if it so desires, may commence or prosecute at its own expense any claims or suits in its own name or in the name of Licensee or join Licensee as a party thereto. Licensee shall notify HOF in writing of any infringement by others of the rights covered by this Agreement which may come to Licensee's attention, and HOF shall have the sole right to determine whether or not any action shall be taken on account of any such infringement. Licensee shall not institute any suit or take any action on account of any such infringement without first obtaining the written consent of HOF to do so and HOF shall reasonably consider any such request;



provided, however, that Licensee shall have the right to take action without HOF's prior consent with respect to any infringement of Licensee's intellectual property rights in the licensed product(s).

(C) Licensee for its own acts hereby indemnifies HOF and undertakes to defend HOF from and against any and all claims, suits, losses, damages, and expenses (including reasonable attorney's fees and expenses) arising out of the manufacture, marketing, sale, distribution, or use of the licensed product(s) which are the subject of this Agreement. Licensee agrees to obtain, at its own expense, general liability insurance, providing adequate protection for Licensee and HOF against any such claims or suits in amounts not less than Three Million Dollars (\$3,000,000.00). Within thirty (30) days from the date hereof, Licensee shall submit to HOF a fully paid policy or certificate of insurance naming HOF as an additional insured party, requiring that insurer will not terminate or materially modify such without written notice to HOF at least twenty (20) days in advance thereof.

(D) HOF hereby indemnifies Licensee and undertakes to defend Licensee against, and hold Licensee harmless from any liabilities, losses, damages, and expenses (including reasonable attorney's fees and expenses) resulting from claims made or suits brought against Licensee challenging the ownership by, or authority of HOF to license, the rights licensed in Paragraph 2 strictly as authorized in this Agreement.

#### 8. TRADEMARK NOTICES.

(A) Any use of HOF's trademarks appearing on the licensed product(s) and on all materials in connection with the licensed product(s) distributed or relating to such licensed product(s), shall appear precisely according to the specifications set forth in Exhibit C attached hereto, which may be amended from time to time by HOF, without variation, with the letter "R" enclosed within a circle.

#### 9. APPROVALS.

(A) The list of Players and Coaches for whom HOF has secured authorization is attached hereto as Exhibit A and Exhibit B, respectively. Notwithstanding the foregoing:

(i) HOF agrees that it shall use reasonable efforts during each License Period to secure rights for the newly elected class of HOF enshrinee players and coaches and those players and coaches who have either not yet responded to HOF's request(s) to become Players or Coaches licensed hereunder or who have previously declined to participate in the licensing program contemplated hereunder.

(ii) HOF shall notify Licensee in writing of any additional Players or Coaches for whom HOF has secured rights hereunder.

(iii) If HOF removes any Player's or Coach's name from the listing of approved Players or Coaches after the later of March 1 of the then-current License Period or a specific licensed product Beta date in any Licensed Period, HOF acknowledges that Licensee will not have the ability to remove such Player's or Coach's name and likeness from its licensed products for the applicable football season. Therefore, the use of such Player's or Coach's name in such case shall not constitute a breach of this Agreement, and HOF agrees that the indemnity in Paragraph 7(D) above shall apply to resulting claims or suits brought against Licensee.

(B) Licensee agrees to furnish HOF free of cost, for its written approval as to quality and use, samples of the HOF trademarks, Player and/or Coach rights licensed hereunder, together with any



packaging, hangtags, and wrapping material incorporating such rights, before their manufacture, sale or distribution, whichever occurs first, and no licensed product(s) shall be manufactured, sold or distributed by Licensee without such prior written approval of such materials. HOF shall respond to requests for such approval from Licensee within ten (10) business days. Any request by Licensee for such approval that is received by HOF and not responded to within ten (10) business days shall be deemed approved. Any material submitted by Licensee for approval that is disapproved by HOF within the ten (10) business day period shall be resubmitted to HOF with changes and HOF shall respond in writing as to approval or disapproval as soon as practicable.

(C) Licensee may choose to use Player and Coach names and/or likenesses in a collective manner (i.e., six (6) or more players or coaches – whether current or former – shown) to promote the respective licensed product(s) on or in radio or television commercials, any material pertaining to packaging, hangtags, wrapping material, print ads, flyers, point-of-purchase displays, press releases, catalogues, trade show booths and exhibits, sales catalogues and other sales/marketing materials, or any other written material or medium, including but not limited to electronic or interactive use; provided, however, that such use shall require the prior written approval of HOF and may require an amendment to this Agreement or a separate agreement, as mutually agreed-upon by the parties hereto. Licensee may, with notification to, and the approval of, HOF, contact any individual Player, Coach or such individual's agent for the purposes of promoting Licensee's products or services and/or to indicate Licensee's interest in securing a Player's or Coach's endorsement and/or services related to any licensed product.

(D) In the event Licensee wishes to secure an individual Player or Coach to make appearances to promote licensed product(s) or to autograph licensed product(s), the selection of such Player or Coach shall be subject to mutual agreement between Licensee and HOF; provided, however, that such use shall require an amendment to this Agreement or a separate agreement, as mutually agreed-upon by the parties hereto. Licensee may, with notification to, and the approval of, HOF, contact any Player or Coach (or their agent) solely for the purposes of promoting Licensee's products or services and/or to indicate Licensee's interest in securing a Player's or Coach's endorsement and/or services related to any licensed product.

#### 10. SPECIFIC UNDERTAKINGS OF LICENSEE.

(A) All rights relating to the rights licensed hereunder are specifically reserved by HOF except for the License herein granted to Licensee to use the rights as specifically and expressly provided in this Agreement.

(B) Upon expiration or termination of this Agreement, all rights granted hereunder shall immediately revert to HOF, and Licensee will refrain from further use of such rights or any further reference thereto, direct or indirect, except as provided in Paragraph 11(D) below. Licensee acknowledges that its failure to cease the use of such rights at the termination or expiration of this Agreement will result in immediate and irreparable damage to HOF, and/or individual retired players and coaches, and to the rights of any subsequent licensee(s).

#### 11. TERMINATION BY HOF

(A) In the event Licensee files a petition in bankruptcy or is adjudicated as bankrupt, or if a petition in bankruptcy is filed against Licensee or if Licensee becomes insolvent, or makes an assignment for the benefit of its creditors or an arrangement pursuant to any bankruptcy laws, or if Licensee discontinues its business, or if a receiver is appointed for it or its business, all rights granted



hereunder, without notice, shall terminate automatically upon the occurrence of any such event. In the event of such termination, neither Licensee nor its receivers, representatives, trustees, agents, administrators, successors, and/or assigns shall have any right to sell, exploit or in any way deal with the rights granted hereunder or with any licensed product(s), or any carton, container, packaging or wrapping material, advertising, promotional or display material pertaining to any licensed product(s).

(B) If Licensee shall violate any of its other material obligations under the terms of this Agreement, HOF shall have the right to terminate this Agreement upon fifteen (15) days' notice in writing, and such notice of termination shall become effective unless Licensee shall completely remedy the violation within the fifteen (15) day period and shall provide reasonable proof to HOF that such violation has been remedied. If this Agreement is terminated under this paragraph, all amounts theretofore accrued shall become due and payable immediately to HOF, and HOF shall not be obligated to reimburse Licensee for any payments made by Licensee to HOF.

(C) Failure to resort to any remedies referred to herein shall not be construed as a waiver of any other rights and remedies to which HOF is entitled under this Agreement or otherwise.

(D) Upon termination of this Agreement, Licensee shall have one hundred twenty (120) days to dispose of and liquidate all inventory. Any remaining licensed product(s) in Licensee's inventory shall not be available to consumers after this one hundred twenty (120) day period expires. Such disposition shall conform to this Agreement in all respects.

12. PARTNERSHIP. Nothing herein contained shall be construed to place HOF and Licensee in the relationship of partners or joint venturers, and Licensee shall have no power to obligate or bind HOF in any manner whatsoever.

13. WAIVER AND/OR MODIFICATION. None of the terms of this Agreement shall be waived or modified except by an express agreement in writing signed by both parties. There are no representations, promises, warranties, covenants or undertakings other than those contained in this Agreement, which represents the entire understanding of the parties. No written waiver shall excuse the performance of an act other than those specified therein. The failure of either party hereto to enforce, or delay by either party in enforcing any of its rights under this Agreement shall not be deemed a continuing waiver or modification thereof and either party may, within the time provided by applicable law, commence appropriate legal proceedings(s) to enforce any or all of such rights.

14. NON-ASSIGNABILITY. This Agreement and all rights and duties hereunder are personal to Licensee and shall not, without written consent of HOF, be assigned (unless approved in writing by HOF, which approval shall not be unreasonably withheld), mortgaged or otherwise encumbered by Licensee or by operation of law to any other person, or entity. Upon any such attempted unapproved assignment, mortgage, license or other encumbrance this Agreement shall terminate and all rights granted to Licensee hereunder shall immediately revert to HOF. If, in its sole discretion, HOF shall exercise such termination, all rights granted to Licensee hereunder shall immediately revert to HOF, subject to Paragraph 11(D) above. Each of EA and EACV represent and warrant that (i) EACV is a Limited Partnership, formed and existing under the laws of the Netherlands, for which Electronic Arts US Co., a Delaware corporation and a wholly-owned subsidiary of Electronic Arts Inc., is the General Partner ("EAUS") and EA is the Limited Partner; and (ii) EA has all right, power and authority to cause EAUS to cause EACV to perform its obligations hereunder, or to cause such obligations to be performed on behalf of EACV. EA covenants that it will cause EAUS to cause EACV to perform, or that it shall cause to be performed on behalf of EACV, and hereby guarantees the performance of, all of EACV's obligations hereunder. EA hereby guarantees the payment in full by EACV of any amounts payable by EACV



hereunder and agrees to pay such amounts on behalf of EACV as provided herein. Notwithstanding the foregoing, EACV shall have the right to assign all of its rights and obligations to any affiliate of EA which succeeds EACV during the Term of this Agreement (an "EACV Successor"); provided that EA's obligations and guarantees as set forth in this paragraph 1(h) shall equally apply to any such EACV Successor.

15. **TERMINATION BY LICENSEE.** Licensee shall have the right to terminate this Agreement, effective as of the end of the then-current License Period, in the event Licensee's agreement is terminated with either or both of Players Inc or NFL Properties.

16. **PLAYERS INC LICENSE AGREEMENT.** Licensee acknowledges and agrees that pursuant to the Players Inc License Agreement, Licensee is required to obtain Players Inc's consent to use any Player identity in and in connection with the licensed product(s) and to pay Players Inc for such use as applicable. Players Inc hereby consents to Licensee's use in the licensed product(s) of the rights granted by HOF in accordance with Paragraph 2 above. Notwithstanding the foregoing, as between Licensee and Players Inc only: (a) no provision hereunder is intended to nor shall it supersede any provision in the Players Inc License Agreement; and (b) in the event of any conflict between the provisions of this Agreement and the provisions of the Players Inc License Agreement, the provisions of the Players Inc License Agreement shall prevail. This provision shall not, nor is it intended to, affect the rights and/or obligations of HOF hereunder, and shall not, nor is it intended to, affect the rights provided in Paragraph 2 above.

17. **CONSTRUCTION.** This Agreement shall be governed by, and shall be construed in accordance with the laws of the State of Ohio of the United States of America. The parties consent to jurisdiction under the State of Ohio and designate the courts of the State of Ohio as the venue for any dispute arising out of, under or relating to this Agreement.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement as of the day and date written first above.

The Foregoing is Acknowledged:

NATIONAL FOOTBALL MUSEUM, INC. DBA  
THE PRO FOOTBALL HALL OF FAME

By: Stephen J. Perry

Title: PRESIDENT/EXEC VICE PRES

Date: MAY 30, 2006

NATIONAL FOOTBALL LEAGUE  
PLAYERS INCORPORATED

By: Douglas F. Allen

Title: President

Date: 5/31/06

ELECTRONIC ARTS INC.

By: [Signature]

Title: [Signature]

Date: [Signature]

ELECTRONIC ARTS C.V.

By its General Partner,  
Electronic Arts US Co.

By: [Signature]

Title: SECRETARY

Date: 1 JUNE 2006



EXHIBIT A  
PLAYERS

Barry Sanders – rights granted for First License Period only

Herb Adderley	Mike Haynes	Merlin Olsen
Lance Alworth	Ted Hendricks	Jim Otto
Doug Atkins	Bill Hewitt*	Alan Page
Lem Barney	Elroy Hirsch*	Walter Payton*
Sammy Baugh	Paul Hornung	Joe Perry
Chuck Bednarik	Ken Houston	Pete Pihos
Bobby Bell	Sam Huff	Fritz Pollard*
Raymond Berry	Jimmy Johnson	Mel Renfro
Elvin Bethea	John Henry Johnson	Jim Ringo
Fred Biltzickoff	Charlie Joiner	Andy Robustelli
George Blanda	Deacon Jones	Barry Sanders
Mel Blount	Stan Jones	Gale Sayers
Bob Brown	Henry Jordan*	Joe Schmidt
Roosevelt Brown*	Sonny Jurgensen	Lee Roy Selmon
Willie Brown	Leroy Kelly	Billy Shaw
Buck Buchanan*	Frank Kinard*	Art Shell
Earl Campbell	Paul Krause	Mike Singletary
Tony Canadeo*	Jack Lambert	Jackie Slater
Dave Casper	Jim Langer	Jackie Smith
Jack Christiansen*	Willie Lamar	Bob St. Clair
George Connor*	Steve Largent	Ernie Stautner
Lon Creekmur	Yale Lary	Jan Stenerud
Larry Cronka	Dante Lavelli	Dwight Stephenson
Willie Davis	Bobby Layne*	Ken Strong*
Joe DeLamielleure	Alphonse "Tuffy" Leemans*	Joe Stydahar*
Dan Dierdorf	Bob Lilly	Fran Tarkenton
Mike Ditka	Larry Little	Charley Taylor
Tony Dorsett	James Lofton	Jim Taylor
Bill Dudley	George McAfee	Jim Thorpe*
Tuck Edwards*	Tom Mack	Y.A. Tittle
Carl Eller	John Mackey	George Trafton*
Tom Fears*	Gino Marchetti	Charley Trippi
Dan Fortmann*	Olise Matson	Gene Upshaw
Dan Fouts	Don Maynard	Steve Van Buren
Bennie Friedman*	Mike McCormack	Norm Van Brocklin*
Frank Gatski*	Tommy McDonald	Doak Walker*
Bill George*	Hugh McElhenny	Paul Warfield
Frank Gifford	John Blood McNally*	Bob Waterfield*
Joe Greene	Mike Michalske*	Mike Webster*
Forrest Gregg	Bobby Mitchell	Arnie Weinmeister*
Bob Griese	Ron Mix	Randy White
Lou Groza*	Lenny Moore	Bill Willis



Jack Ham	Marion Motley*	Larry Wilson
Dan Hampton	Mike Munchak	Kellen Winslow
Franco Harris	George Musso*	Alex Wojciechowicz*
	Bronko Nagurski*	Willie Wood
	Ozzie Newsome	Ron Yary
	Ray Nitschke*	Jack Youngblood
	Leo Nomellini*	
		*Deceased



**EXHIBIT B  
COACHES**

<b>George Allen* - COACH</b>	<b>Curly Lambeau - COACH</b>	<b>Don Shula - COACH</b>
<b>Paul Brown* - COACH</b>	<b>Tom Landry* - COACH</b>	<b>Hank Stram* - COACH</b>
<b>Jimmy Conzelman* - COACH</b>	<b>Mary Levy - COACH</b>	<b>Bill Walsh - COACH</b>
<b>Weeb Ewbank* - COACH</b>	<b>Vince Lombardi* - COACH</b>	<b>Chuck Noll - COACH</b>
<b>Ray Flaherty* - COACH</b>		
<b>Joe Gibbs - COACH</b>		
<b>Sid Gillman* - COACH</b>		
<b>Bud Grant - COACH</b>		
<b>George Halas* - COACH</b>		
		<b>COACH - COACHES GAME ONLY</b>
		<b>*Deceased</b>



EXHIBIT C  
HOF TRADEMARKS AND USAGE GUIDELINES





# EXHIBIT 16

EXHIBIT 16

SER 118



Dewey & LeBoeuf LLP  
One Embarcadero Center, Suite 400  
San Francisco, CA 94111

Todd Padnos (Bar No. 208202)  
*tpadnos@dl.com*  
DEWEY & LEOEUF LLP  
One Embarcadero Center, Suite 400  
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Attorneys for Defendants National Football League Players Association  
and National Football League Players Incorporated d/b/a Players Inc

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

BERNARD PAUL PARRISH, HERBERT  
ANTHONY ADDERLEY, WALTER  
ROBERTS III,

Plaintiffs,

v.

NATIONAL FOOTBALL LEAGUE  
PLAYERS ASSOCIATION and NATIONAL  
FOOTBALL LEAGUE PLAYERS  
INCORPORATED d/b/a/ PLAYERS INC,

Defendants.

Case No. C 07 0943 WHA

**DECLARATION OF JEFFREY  
KESSLER IN SUPPORT OF  
DEFENDANTS' LETTER BRIEF TO  
THE COURT DATED AUGUST 1,  
2008**



**DECLARATION OF JEFFREY KESSLER**

I, Jeffrey Kessler, hereby declare as follows:

1. I am an attorney with Dewey & LeBoeuf LLP, attorneys for Defendants National Football League Players Association ("NFLPA") and National Football League Players Incorporated d/b/a Players Inc ("Players Inc") in this action. I am a member of the bar of the State of New York and my *pro hac vice* application in this matter was granted by the Court on February 28, 2007. I make this Declaration in support of Defendants' Letter Brief to the Court, dated August 1, 2008. I have personal knowledge of each of the facts stated herein, and if called to testify, could and would testify completely hereto.

2. Attached hereto as Exhibit 1 is a true and correct copy of a license agreement between Electronic Arts Inc. and Players Inc, dated January 20, 2000, bearing bates numbers PI132982-PI132992 ("2000 EA Agreement").

3. Attached hereto as Exhibit 2 is a true and correct copy of an addendum, dated July 5, 2000, to the 2000 EA Agreement bearing bates numbers PI000128-000132.

4. Attached hereto as Exhibit 3 is a true and correct copy of excerpts from the transcript of the deposition of Joel Linzner, taken on February 8, 2008.

5. Attached hereto as Exhibit 4 is a true and correct copy of a license agreement between Electronic Arts Inc., Electronics Arts C.V., the National Football Museum Inc. (d/b/a the Pro Football Hall of Fame) and Players Inc, dated April 25, 2006, bearing bates numbers PI000100-PI000110.

6. Attached hereto as Exhibit 5 is a true and correct copy of a letter, dated October 27, 2005, from John Bankert, President, Pro Football Hall of Fame, bearing bates number PI126889.

7. Attached hereto as Exhibit 6 is a true and correct copy of excerpts from the transcript of the deposition of Adam Zucker, taken on April 4, 2008.

8. Attached hereto as Exhibit 7 is a true and correct copy of excerpts from the transcript of the deposition of Warren Friss, taken on April 4, 2008.

Dewey & LeBoeuf LLP  
One Embarcadero Center, Suite 400  
San Francisco, CA 94111



1 9. Attached hereto as Exhibit 8 are true and correct copies of screenshots from  
2 the Madden NFL 2007 video game of the 1984 49ers team.

3 10. Attached hereto as Exhibit 9 is a true and correct copy of Exhibit 3 to the  
4 reply report of Plaintiffs' expert Philip Y. Rowley, dated June 27, 2008.

5 11. Attached hereto as Exhibit 10 is a true and correct copy of an e-mail chain  
6 between Ryan Hilbert, Esq. of Manatt, Phelps & Phillips, LLP and Jeffrey Kessler and David  
7 Greenspan of Dewey & LeBoeuf LLP, copying others, dated May 20, 2008.

8 12. Attached hereto as Exhibit 11 is a true and correct copy of a letter, dated  
9 March 28, 2008, from Roy Taub of Dewey & LeBoeuf LLP.

10 13. Attached hereto as Exhibit 12 is a true and correct copy of the proposed Order  
11 Regarding Plaintiffs' Discovery Motion, dated August 29, 2007.

12 14. Attached hereto as Exhibit 13 is a true and correct copy of the Order Adopting  
13 In Part Proposed Order Regarding Plaintiffs' Discovery Motion, dated August 29, 2007.

14 15. Attached hereto as Exhibit 14 is a true and correct copy of excerpts from the  
15 transcript of a hearing that took place before this Court on August 17, 2007.

16 16. Attached hereto as Exhibit 15 is a true and correct copy of excerpts from the  
17 transcript of a hearing that took place before this Court on June 11, 2008.

18 17. Attached hereto as Exhibit 16 is a true and correct copy of excerpts from the  
19 transcript of the deposition of Bernard Paul Parrish, taken on March 13, 2008.

20 18. Attached hereto as Exhibit 17 is a true and correct copy of an e-mail from  
21 Bernard Parrish, dated November 7, 2006, bearing bates number CLASS003725.

22 19. Attached hereto as Exhibit 18 is a true and correct copy of an article by Alan  
23 Schwarz titled "Upshaw Maintains Royalties Were Distributed Properly" from the New York  
24 Times, dated February 16, 2007, bearing bates numbers CLASS003005-CLASS003006.

25 20. Attached hereto as Exhibit 19 is a true and correct copy of excerpts from the  
26 transcript of the deposition of Glenn Eyrich, taken on February 12, 2008.

27

28



1 I declare under penalty of perjury under the laws of the United States of America  
2 that the foregoing is true and correct.

3  
4 Dated: August 1, 2008

5 /s/ Jeffrey Kessler  
6 Jeffrey L. Kessler  
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Dewey & LeBoeuf LLP  
One Embarcadero Center, Suite 400  
San Francisco, CA 94111



## **EXHIBIT 2**

**Case No. C 07 0943 WHA**

**Parrish v. National Football League Players Association, et al.**



## Addendum

The following paragraphs of the License Agreement between Electronic Arts and PLAYERS INC, effective March 1, 1998 shall be amended and added to only as follows:

## 2. Grant of License

"Identity" as defined in such Paragraph 2 also shall apply to retired NFL players listed in Attachment C hereto. Attachment C shall be established and modified in accordance with the same procedure provided by the License Agreement for Attachment B thereto.

## 6. Royalty Payment

For the additional rights granted by this addendum, separate from and in addition to the other guarantees and payment specified in such Paragraph 6, Licensee shall pay to PLAYERS INC the following amount on the dates listed below:

\$150,000	Upon Execution of this Addendum
\$150,000	March 1, 2001
\$150,000	March 1, 2002

The royalty payments due March 1, 2001 and March 2, 2002 are contingent upon Licensor and Licensee executing a new license agreement through February 28, 2003, and in such event this Addendum shall apply thereto.

No amount of the payment by Licensee to PLAYERS INC provided for by this Addendum shall offset any other guarantee or royalty payment contained in such License Agreement or new license agreement.

All other provisions of such License Agreement shall remain in full force and effect.

Agreed to by:

PLAYERS INC

By: [Signature]  
 Title: President  
 Date: 6/29/00

Electronic Arts

By: [Signature]  
 Title: Business Affairs  
 Date: 7/5/00



Retired Players Granted under this Addendum

TY	ALLERT
HOWARD	BALLARD
CARL	BANKS
FRED	BARNETT
HARRIS	BARTON
BILL	BATES
SAMMY	BAUGH
EDGAR	BENNETT
STAN	BROCK
ROBERT	BROOKS
JEROME	BROWN
RON	BROWN
WILLIE	BROWN
BILLY	BRYAN
PAUL	BUTCHER
KEVIN	BUTLER
KEITH	BYARS
HARRY	CARSON
ANTHON	CARTER
CHUCK	CECIL
DWIGHT	CLARK
GARY	CLARK
MARK	COLLINS
JIM	COVERT
ROGER	CRAIG
JACK	DEL RIO
ROBERT	DELPINO
RICHARD	DENT
MIKE	DITKA
RICKEY	DIXON
RAY	DONALDSON
MAURICE	DOUGLASS
JUMBO	ELLIOTT
RIKI	ELLISON
JOHN	ELWAY
BOOMER	ESIASON
GARY	FENCIK
JUMPY	GEATHERS
ERNEST	GIVINS
KURT	GOUVEIA
OTTO	GRAHAM
RED	GRANGE
MEL	GRAY
GARY	GREEN
KEVIN	GREENE
DON	GRIFFIN
RUSS	GRIMM



DAN HAMPTON  
RODNEY HAMPTON  
ANDY HARMON  
ALVIN HARPER  
DENNIS HARRAH  
AL HARRIS  
RAMONT HARRIS  
TIM D. HARRIS  
KEN HARVEY  
JAMES HASTY  
LESTER HAYES  
MEL HEIN  
TED HENDRICKS  
STEVE HENDRICKSON  
CRAIG HEYWARD  
JAY HILGENBERG  
DALTON HILLIARD  
PIERCE HOLT  
WES HOPKINS  
ERIK HOWARD  
SAM HUFF  
BOBBY HUMPHREY  
DON HUTSON  
KEITH JACKSON  
RICKEY JACKSON  
JOE JACOBY  
HAYWOO JEFFIRES  
TOM (PEP) JOHNSON  
VAUGHN JOHNSON  
BRENT JONES  
SETH JOYNER  
KEITH KARTZ  
JIM KELLY  
GREG KRAGEN  
JACK LAMBERT  
STEVE LARGENT  
LAMAR LATHON  
HENRY LAWRENCE  
BOBBY LAYNE  
CARL LEE  
BOB LILLY  
GREG LLOYD  
DAVE LOGAN  
KIRK LOWDERMILK  
DON MAJKOWSKI  
TONY MANDARICH  
DEXTER MANLEY  
WILBER MARSHALL  
CLAY MATTHEWS



DON MAYNARD  
PHIL McCONKEY  
BUBBA McDOWELL  
TIM McKYER  
JIM McMAHON  
AUDREY McMILLIAN  
DAVE MEGGETT  
MATT MILLEN  
SAM MILLS  
ART MONK  
RON MOORE  
JOE MORRIS  
DON MOSEBAR  
MIKE MUNCHAK  
BRONKO NAGURSKI  
TOM NEWBERRY  
LEO NOMELLINI  
MERLIN OLSEN  
JIM PARKER  
ELVIS PATTERSON  
BRETT PERRIMAN  
WILLIAM PERRY  
JACK REYNOLDS  
KEVIN ROSS  
MARK RYPIEN  
DAN SALEAUMUA  
RICKY SANDERS  
JESSE SAPOLU  
GALE SAYERS  
TODD SCOTT  
JOHN SETTLE  
ART SHELL  
VAI SIKAHEMA  
PHIL SIMMS  
JACKIE SLATER  
DENNIS SMITH  
BOB ST. CLAIR  
JAN STENERUD  
PAT SWILLING  
STEVE TASKER  
JACK TATUM  
JOHN TAYLOR  
JOHN TELTSCHIK  
REYNA THOMPSON  
JIM THORPE  
GREG TOWNSEND  
HERSCH WALKER  
STEVE WALLACE  
ALVIN WALTON



DON WARREN  
RANDY WHITE  
REGGIE WHITE  
DOUG WILLIAMS  
LARRY WILSON  
OTIS WILSON  
WILL WOLFORD  
OTIS WONSLEY  
DONNELL WOOLFORD  
JACK YOUNGBLOOD  
GARY ZIMMERMAN  
MICHAEL ZORDICH  
CHRIS ZORICH



# EXHIBIT 17

EXHIBIT 17

SER 129





# Chicago Breaking Sports

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## Soldier Field to be featured in Madden 12

March 14, 2011 6:25 PM | 1 Comment

By Dan Pompei

Whether or not Soldier Field hosts an NFL game in 2011, it appears the stadium will host NFL games on a Madden video game for the first time.

Soldier Field spokesman Lucca Serra said the legal documents are being drawn up for a deal with EA Sports that would give the company the right to include Soldier Field in Madden 12.

In the past, the home of the Bears has been referred to as "Chicago Stadium" in the Madden games.

Serra said EA Sports producer Phil Frazier asked about using Soldier Field in the games a couple of weeks ago.

"They never reached out to us in past years," Serra said. "We absolutely wanted to work with them, be well represented in the game and have an accurate depiction of the stadium. Apparently there was a misunderstanding that we were not interested."

Not all stadiums are compensated for entering into a licensing agreement with video game companies, but Soldier Field is expected to receive a minimal stipend to cover legal fees.

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RECOMMENDED FOR YOU

FROM AROUND THE WEB

As the calendar turns, ask yourself: What is important in 2012? *(Your Doubting Thomas)*

Happy New Year's, and oh, hey, Quentin's gone *(White Sox Observer)*

6 Ideas the Devil on Your Shoulder Will Have for your New Year's Eve Celebration *(Lists That Actually Matter)*

The Rat in the Toilet *(Bon Bin) Ya'll)*

Looking Back, Looking Forward *(The Blue Streak)*

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A new look for ChicagoBreakingSports.com

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Bonds' defense: Didn't know they were st...

last update: 03/22/11 11:52 PM  
1 comment

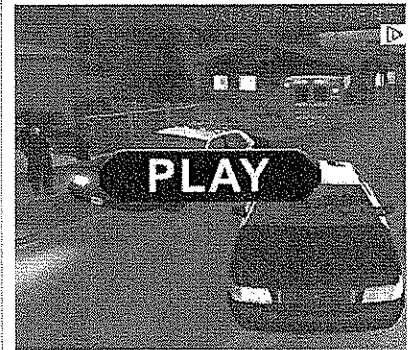
Categories: Bears Tags: Soldier Field

1 Comments

daniel t westrick on March 16, 2011 11:21 AM

maybe they can take the profits off the game and put in artificial turf in soldier, so our speedy WR's can start out running CB's and catch a few balls

MMERC on March 16, 2011 6:53 AM





They should put a few old stadiums in there. No worries about rights of it? Bring back The VET! Veterans Stadium would be sweet.

prognosticator on March 15, 2011 1:33 PM  
Butch, would you buy the game if it had those features you mentioned?

tired guy on March 15, 2011 12:29 PM  
Great.... but can they update the stadium model so the end zone scoreboards are placed and shown correct? Really annoying to see that lack of detail

jill on March 15, 2011 8:06 AM  
Ha-Ha! Wow you nerds! Way to stick it to "the man!"

midwaymonsta on March 15, 2011 1:44 AM  
haha madden terrible game... i still play apf 2k8

Eric on March 14, 2011 10:47 PM  
Still playing NFL2k5 with updated rosters. I'm not buying a new football title until the king of football games return (2k sport).

Bearstradamus Brzeski on March 14, 2011 8:30 PM  
Will the Madden '12 people have puddles on the field, slip and slide playing conditions, Kentucky Brown Grass, players getting concussed from the frozen playing surface, and a park district 'big shot' employee with money coming out his pockets?

Bearstradamus Brzeski on March 14, 2011 8:23 PM  
Will the Madden '12 people will have puddles on the field, slip and slide playing conditions, Kentucky Brown Grass, players getting concussed from frozen playing surface, and a park district 'big shot' employee with money coming out his pockets too?

Leave a comment

Name

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Comments

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# EXHIBIT 18

EXHIBIT 18

SER 132





PLAYERS INC.

May 31, 2001

Jeremy Strauser  
Electronic Arts -- Tiburon  
2301 Lucien Way, Suite 395  
Maitland, FL 32751

Dear Jeremy:

The following is a detailed explanation of the approved use of retired players for the upcoming video games per our discussion at E3. The Addendum that was signed last July was a three year Agreement that granted Electronic Arts the right to use the images and identities of the players listed in Attachments A and B (both documents were sent with the Addendum). For all retired players that are not listed in either Attachment A or B, their identity must be altered so that it cannot be recognized. Regarding paragraph 2 of the pending License Agreement between Electronic Arts and Players Inc, a players' identity is defined as his name, likeness (including, without limitation, number), picture, photograph, voice, facsimile signature and/or biographical information. Hence, any and all players not listed in Attachment A or B cannot be represented in Madden 2002 with the number that the player actually wore, and must be scrambled.

Along those same lines, the only active players that can be included in the licensed product, are those players who have given their licensing rights to Players Inc. Substituting a players name with their jersey number is not acceptable. If a player has not given his rights to Players Inc, his identity, as defined above, cannot be used within the game. If you have any questions regarding this matter, please contact me at (202) 496-2865.

Sincerely,

  
LaShun Lawson

Assistant Vice President  
Multimedia

NATIONAL FOOTBALL LEAGUE PLAYERS INCORPORATED

2021 L STREET, NW, SUITE 500, WASHINGTON, DC 20036 TELEPHONE: 202-496-2860 FAX: 202-296-3486  
[www.nflplayers.com](http://www.nflplayers.com)

EA00000128  
SER 133



# EXHIBIT 21



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 San Francisco, CA 94111-1809  
 Telephone: (415) 391-5400  
 Facsimile: (415) 397-7188

Attorneys for Defendant  
 ELECTRONIC ARTS INC.

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

MICHAEL E. DAVIS, aka TONY DAVIS,  
 VINCE FERRAGAMO, and BILLY JOE  
 DUPREE, on behalf of themselves and all  
 other similarly situated,

Plaintiffs,

v.

ELECTRONIC ARTS INC.,

Defendant.

Case No. 10-CV-3328-RS

**DEFENDANT ELECTRONIC ARTS  
 INC.'S THIRD AMENDED RESPONSES  
 TO PLAINTIFFS' INTERROGATORY  
 NO. 8**

Judge: Hon. Richard Seeborg

Date Comp. Filed: July 29, 2010

Trial Date: None

PROPOUNDING PARTY: Plaintiff MICHAEL E. DAVIS  
 RESPONDING PARTY: Defendant ELECTRONIC ARTS INC.  
 SET NO. One



Pursuant to Rule 33 of the Federal Rules of Civil Procedure and the Court's July 5, 2011, September 20, 2011 and November 16, 2011 Orders, Defendant Electronic Arts hereby amends and supplements the following responses and objections to the Interrogatories served by Plaintiffs in this matter on February 2, 2011.

**OBJECTIONS TO PURPORTED DEFINITIONS**

1. EA objects to each and every paragraph of the section labeled "Definitions" to the extent the definitions purportedly set forth therein would (a) expand the definition of a term beyond its ordinary usage in the English language; (b) create undue burden for EA when propounding its responses and objections to the Interrogatories; and/or (c) impose obligations on EA that exceed, or are inconsistent with, the obligations imposed by the Federal Rules of Civil Procedure. EA will respond to the Interrogatories consistent with the ordinary English meaning of the words and its obligations under the Federal Rules of Civil Procedure.

2. EA further objects to the purported definitions of "EA," "YOU" and "YOUR" as vague, unintelligible, inconsistent with ordinary English usage, overbroad, unduly burdensome and imposing obligations that exceed those imposed by the Federal Rules of Civil Procedure. EA will construe the terms to mean Electronic Arts Inc.

3. EA further objects to the purported definition of "CLASS" and "RETIRED NFL PLAYERS" to the extent it purports to assume the existence of or give meaning or legal significance to a document, fact or purported fact whose existence, meaning and significance is the subject of legal dispute between the parties. EA further objects to the purported definition to the extent it calls for a legal conclusion or is argumentative with regard to the existence, meaning or legal significance of any information contained therein.

4. EA further objects to the purported definition of "PLAYERS INC" as vague, unintelligible, inconsistent with ordinary English usage, overbroad and unduly burdensome. EA will construe the term "PLAYERS INC" to mean Players Inc.

5. EA further objects to the purported definition of "NFLPA" as vague, unintelligible, inconsistent with ordinary English usage, overbroad and unduly burdensome. EA will construe the term "NFLPA" to mean National Football League Players Association.



1           6. EA further objects to the purported definition of "NFL" as vague, unintelligible,  
2 inconsistent with ordinary English usage, overbroad and unduly burdensome. EA will construe  
3 the term "NFL" to mean National Football League.

4           7. EA further objects to the purported definition of "HISTORICAL NFL PLAYER  
5 CHARACTERS" to the extent it purports to assume the existence of or give meaning or legal  
6 significance to a document, fact or purported fact whose existence, meaning and significance is  
7 the subject of legal dispute between the parties. EA further objects to the purported definition as  
8 vague and overbroad insofar as it refers to "other teams." EA further objects to the purported  
9 definition to the extent it calls for a legal conclusion or is argumentative with regard to the  
10 existence, meaning or legal significance of any information contained therein. EA will construe  
11 the term "HISTORICAL NFL PLAYER CHARACTERS" to mean "virtual players, characters  
12 or avatars that populate the 'historic teams' and 'all time teams' in the Madden NFL video game  
13 franchise."

14           8. EA further objects to the purported definition of "ACTIVE NFL PLAYERS" as  
15 vague and ambiguous.

16           9. EA further objects to the purported definition of "LIKENESS" as vague,  
17 unintelligible, inconsistent with ordinary English usage, unduly burdensome and imposing  
18 obligations that exceed those imposed by the Federal Rules of Civil Procedure. EA further  
19 objects to the extent it purports to assume the existence of or give meaning or legal significance  
20 to a document, fact or purported fact whose existence, meaning and significance is the subject of  
21 legal dispute between the parties. EA further objects to the definition to the extent it calls for a  
22 legal conclusion or is argumentative with regard to the existence, meaning or legal significance  
23 of any information contained therein. EA further objects to the purported definition to the extent  
24 it is inconsistent with the definition purportedly assigned to the term in Plaintiffs' other  
25 discovery requests. EA will construe the term "LIKENESS" in a manner consistent with  
26 ordinary English usage.

27           10. EA further objects to the purported definition of "FIELD OF DATA" as vague,  
28 unintelligible, inconsistent with ordinary English usage, unduly burdensome and imposing



obligations that exceed those imposed by the Federal Rules of Civil Procedure. EA further objects to the extent it purports to assume the existence of or give meaning or legal significance to a document, fact or purported fact whose existence, meaning and significance is the subject of legal dispute between the parties. EA further objects to the definition to the extent it calls for a legal conclusion or is argumentative with regard to the existence, meaning or legal significance of any information contained therein.

11. EA further objects to the purported definitions of "DOCUMENT," "DOCUMENTS" and "COMMUNICATION" to the extent they impose obligations that exceed those imposed by the Federal Rules of Civil Procedure.

12. EA further objects to the purported definitions of "REFER," "RELATE" and "DESCRIBE" as vague and overbroad. EA further objects to the purported definitions to the extent they impose obligations that exceed those imposed by the Federal Rules of Civil Procedure.

13. EA further objects to the purported definitions of "IDENTIFY," "IDENTITY," "IDENTIFICATION" or "DESCRIBE" as vague, unintelligible, inconsistent with ordinary English usage, compound, unduly burdensome and imposing obligations that exceed those imposed by the Federal Rules of Civil Procedure. EA will provide information in response to the Interrogatories in a manner consistent with its obligations under the Federal Rules of Civil Procedure.

#### **OBJECTIONS TO PURPORTED INSTRUCTIONS**

1. EA objects to each and every paragraph of the section labeled "INSTRUCTIONS" to the extent the instructions purportedly set forth therein would (a) create undue burden for EA when propounding its responses and objections to the Interrogatories; and/or (b) impose obligations on EA that exceed, or are inconsistent with, the obligations imposed by the Federal Rules of Civil Procedure. EA will respond to the Interrogatories consistent with its obligations under the Federal Rules of Civil Procedure and applicable authority.

2. EA further objects to the purported instructions regarding assertion of privilege;



1 or other objections to the Interrogatories, to the extent the purported instructions impose duties  
2 on EA that go beyond those imposed by the Federal Rules of Civil Procedure and applicable  
3 authority.

4 3. EA further objects to the purported instructions regarding vague, ambiguous or  
5 indefinite terms or phrases to the extent the purported instructions impose duties on EA that go  
6 beyond those imposed by the Federal Rules of Civil Procedure and applicable authority.

#### 7 GENERAL OBJECTIONS

8 1. EA objects to each and every interrogatory, definition and instruction to the extent  
9 it purports to impose requirements on EA that are different from, or in addition to, those imposed  
10 by the Federal Rules of Civil Procedure. EA will interpret each definition, and interpret and  
11 respond to each interrogatory, in a manner consistent with its obligation under the Federal Rules  
12 and applicable authority.

13 2. EA objects to the Interrogatories to the extent they seek information or documents  
14 protected by the attorney-client privilege, the attorney work-product doctrine, the joint-interest  
15 privilege or any other privilege from or proscription against disclosure. Any accidental  
16 disclosure of privileged information shall not be deemed a waiver of the applicable privilege, and  
17 EA reserves the right to demand the return of any privileged information that may be produced  
18 inadvertently.

19 3. EA objects to the Interrogatories to the extent that they seek information that is  
20 irrelevant to the subject matter of the lawsuit and/or is not reasonably calculated to lead to  
21 discovery of relevant evidence.

22 4. EA objects to the Interrogatories to the extent they are unbounded as to time.

23 5. EA objects to the Interrogatories to the extent that they seek information  
24 regarding works released prior to July 29, 2008.

25 6. EA objects to the Interrogatories to the extent they seek confidential or  
26 proprietary business information.

27 7. EA objects to the Interrogatories to the extent they are duplicative, redundant,  
28 vague, ambiguous and overbroad.



1           8.     EA objects to the Interrogatories because responding to them as drafted would be  
2 excessively burdensome, expensive and oppressive.

3           9.     EA objects to the Interrogatories to the extent they seek information relating to  
4 third parties, including the NFL and organizations and/or individuals who have participated in  
5 NFL-related activities, as imposing undue burden on EA. EA will respond to the Interrogatories  
6 solely on its own behalf.

7           10.    EA objects to the Interrogatories to the extent they seek information that is not  
8 within EA's possession, custody or control, including without limitation information regarding  
9 or in possession of the NFL, the NFLPA and/or Players Inc.

10          11.    No agreement by EA to provide information in response to an interrogatory shall  
11 in any way be construed as an admission that any information exists. By responding to an  
12 interrogatory, EA does not accept, admit or concede any assertions, characterizations or  
13 implications contained therein. A response to an interrogatory is only a representation that non-  
14 privileged and otherwise unprotected information will be made available, subject to objections, if  
15 it exists.

16          12.    No agreement by EA to provide information in response to an interrogatory shall  
17 be construed as a waiver of EA's right to object to the use of that information in trial or any other  
18 proceeding in this or any other action.

19          13.    EA reserves the right to amend or supplement its responses and objections.

20          14.    EA objects to the Interrogatories to the extent they are premature and to the extent  
21 that the vague and ambiguous nature of Plaintiffs' claims, as set forth in the First Amended  
22 Complaint, makes it impossible to determine what information is properly discoverable in this  
23 litigation. EA hereby reserves the right to move for a protective order limiting the time and  
24 manner of discovery until such time as Plaintiffs' claims are properly delineated and the scope of  
25 appropriate and efficient discovery can be defined.

26          15.    EA objects to the Interrogatories to the extent they seek information that the  
27 Plaintiffs either possess or are in an equal position to obtain, on the grounds that such requests are  
28 overly broad and impose an excessive burden on EA. EA will not produce information that is



publicly available and/or already in Plaintiffs' possession, custody or control.

16. EA objects to the Interrogatories to the extent they call for expert opinion testimony in advance of the time for production of this information under Fed. R. Civ. P. 26(a)(2).

**RESPONSES AND SPECIFIC OBJECTIONS TO INTERROGATORIES**

**INTERROGATORY NO. 8:**

DESCRIBE in detail how EA assigned jersey numbers to HISTORICAL NFL PLAYER CHARACTERS.

**THIRD AMENDED RESPONSE TO INTERROGATORY NO. 8:**

EA incorporates each of its General Objections, Objections to Purported Instructions, Objections to Purported Definitions and Preliminary Statement as if fully set forth here. EA specifically objects to this interrogatory to the extent information requested is neither relevant to any issue, claim or defense in this litigation nor reasonably calculated to lead to the discovery of relevant evidence. EA specifically objects to this interrogatory as overbroad, unduly burdensome and imposing obligations that exceed those imposed by the Federal Rules of Civil Procedure insofar as it requires EA to "DESCRIBE in detail." EA further specifically objects to this interrogatory to the extent it is unbounded as to time. EA further specifically objects to this interrogatory insofar as it assumes the existence of or gives meaning or legal significance to a document, fact or purported fact whose existence, meaning and significance is the subject of legal dispute between the parties, calls for a legal conclusion and/or is argumentative with regard to the existence, meaning or legal significance of information contained therein. EA further specifically objects to this interrogatory as vague, ambiguous and unintelligible insofar as it refers to "HISTORICAL NFL PLAYER CHARACTERS."

Subject to and without waiver of its objections, EA responds as follows:

For Madden NFL 02 and Madden NFL 03, EA assigned numbers to the virtual players on historic teams by selecting numbers at random from within a range of position-appropriate numbers. Some of the numbers randomly assigned to the virtual players corresponded to the numbers of actual players on the historic teams depicted. For Madden NFL 04 through Madden



1 NFL 09, EA assigned numbers to virtual players on historic teams by selecting numbers that did  
2 not correspond to the numbers of actual players on the historic teams depicted. EA selected  
3 these numbers by assigning a number at random from within a range of position-appropriate  
4 numbers excluding numbers that were used by actual players on the historic teams depicted and  
5 by other virtual player on the historic teams in the game. For Madden NFL 10, EA did not  
6 include historic teams.

7  
8 Dated: December 8, 2011

KEKER & VAN NEST LLP

9  
10  
11 By: 

R. ADAM LAURIDSEN  
Attorneys for Defendant  
ELECTRONIC ARTS INC.



**PROOF OF SERVICE**

I am employed in the City and County of San Francisco, State of California in the office of a member of the bar of this court at whose direction the following service was made. I am over the age of eighteen years and not a party to the within action. My business address is Keker & Van Nest LLP, 633 Battery Street, San Francisco, California 94111.

On December 8, 2011, I served the following document(s):

**DEFENDANT ELECTRONIC ARTS INC.'S THIRD AMENDED  
RESPONSES TO PLAINTIFFS' INTERROGATORY NO. 8**

by **COURIER**, by placing a true and correct copy in a sealed envelope addressed as shown below, and dispatching a messenger from First Legal Network, 1138 Howard Street, 1<sup>st</sup> Floor, San Francisco, California 94103, with instructions to hand-carry the above and make delivery to the following during normal business hours, by leaving the package with the person whose name is shown or the person authorized to accept courier deliveries on behalf of the addressee.

Brian D. Henri  
Thomas, Whitelaw & Tyler LLP  
Three Embarcadero Center, Suite 1350  
San Francisco, CA 94111

Tel: (415) 820-0400  
Fax: (415) 820-0405  
Email: [bhenri@twtlaw.com](mailto:bhenri@twtlaw.com)

Executed on December 8, 2011, at San Francisco, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

  
ROSEANN CIRELLI



# EXHIBIT 23

EXHIBIT 23

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VOLUME 6

PAGES 1113 - 1362

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE WILLIAM H. ALSUP

BERNARD PAUL PARRISH, HERBERT )  
ANTHONY ADDERLEY, WALTER ROBERTS )  
III, )

PLAINTIFFS, )

VS. )

NO. C 07-0943 WHA

NATIONAL FOOTBALL LEAGUE PLAYERS )  
ASSOCIATION AND NATIONAL FOOTBALL )  
LEAGUE PLAYERS INCORPORATED D/B/A )  
PLAYERS INC, )

DEFENDANTS. )

SAN FRANCISCO, CALIFORNIA

WEDNESDAY

OCTOBER 29, 2008

TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

**FOR PLAINTIFFS:**

MANATT, PHELPS & PHILLIPS  
1001 PAGE MILL ROAD, BUILDING 2  
PALO ALTO, CALIFORNIA 94304

**BY: RONALD S. KATZ, ESQ.**  
**RYAN S. HILBERT, ESQ.**

MANATT, PHELPS & PHILLIPS  
7 TIMES SQUARE  
NEW YORK CITY, NEW YORK 10036

**BY: L. PETER PARCHER, ESQ.**

MANATT, PHELPS & PHILLIPS  
11355 WEST OLYMPIC BOULEVARD  
LOS ANGELES, CALIFORNIA 90064

**BY: CHAD HUMMEL, ESQ.**

(APPEARANCES CONTINUED ON NEXT PAGE)



1 THE TELEVISION SHOW, MADDEN NATION, USUALLY FOLLOWS  
2 THE LAUNCH BY SOME PERIOD OF TIME. AND THE MADDEN CHALLENGE,  
3 WHICH IS A SERIES OF TOURNAMENTS, LIVE TOURNAMENTS, FOLLOWS THE  
4 LAUNCH BY WEEKS, IF NOT MONTHS.

5 Q. AND THE MADDEN GAME OVER THE YEARS HAS BEEN A SIGNIFICANT  
6 FINANCIAL SUCCESS FOR EA, CORRECT?

7 A. IT HAS BEEN A SUCCESSFUL GAME, YES, SIR.

8 Q. ALL RIGHT. NOW, THERE ARE VARIOUS FEATURES IN THE MADDEN  
9 GAME. ONE OF THEM I'M GOING TO FOCUS ON THIS MORNING IS THE  
10 VINTAGE OR HISTORIC TEAM FEATURE.

11 ARE YOU FAMILIAR WITH THAT?

12 A. I THINK THEY HAVE THAT -- I'M NOT TERRIBLY FAMILIAR WITH  
13 THE FEATURES IN ALL OF THE VARIOUS ITERATIONS OF THE MADDEN NFL  
14 GAME.

15 I'VE BEEN AT EA SINCE '99, SO THERE WOULD HAVE BEEN  
16 TEN ITERATIONS OF THAT GAME. AND I AM NOT FAMILIAR WITH WHAT'S  
17 IN EACH OF THOSE VERSIONS OF MADDEN NFL.

18 Q. AND I'M NOT ASKING THAT. WHAT I'M ASKING IS A SIMPLER  
19 QUESTION, WHICH IS SORT OF 20,000-FOOT.

20 ARE YOU AWARE THAT THERE IS A FEATURE IN THE MADDEN  
21 GAME THAT HAS HISTORIC TEAMS?

22 A. WELL, I KNOW IN SOME VERSIONS OF MADDEN WE HAVE HAD  
23 HISTORIC TEAMS. I DON'T KNOW IF THAT'S IN EVERY VERSION OF  
24 MADDEN.

25 Q. OKAY. AND CAN YOU DESCRIBE FOR THE JURY WHAT THE HISTORIC



1 TEAM FEATURE IS?

2 A. NOT VERY WELL. I KNOW -- AGAIN, IT'S DIFFERENT IN  
3 DIFFERENT YEARS, MR. HUMMEL, SO I'M NOT SURE THAT ONE ANSWER  
4 WILL -- YOU KNOW, WILL EXPLAIN THAT.

5 THE GAME GROWS AND CHANGES EVERY YEAR. THAT'S WHY WE  
6 GET -- ARE ABLE TO GET PEOPLE TO BUY IT EVERY YEAR. THERE'S  
7 DIFFERENT FEATURES IN IT FROM MADDEN '01, '02, '03 AND '04, ET  
8 CETERA.

9 AND THEY DON'T HAVE THE SAME FEATURES IN EVERY YEAR.  
10 AND EVEN WHEN THEY HAVE FEATURES THAT ARE COMPARABLE, THEY'RE  
11 DIFFERENT. SO I CAN'T -- I DON'T KNOW HOW TO ANSWER YOUR  
12 QUESTION.

13 Q. I'M ONLY FOCUSING ON THE HISTORIC GAME FEATURE. ARE YOU  
14 AWARE THAT THAT EXISTED IN SOME VERSIONS OF THE MADDEN GAME  
15 OVER THE YEARS?

16 A. YES, SIR.

17 Q. AND IS THAT A FEATURE BY WHICH A GAME PLAYER COULD CHOOSE,  
18 FOR EXAMPLE, TO BE THE 1989 49ERS, AND AN OPPONENT COULD BE THE  
19 1985 BEARS OR THE 1965 BROWNS?

20 A. AS FAR AS I'M AWARE THERE WERE SOME VERSIONS OF THE GAME  
21 IN THE EARLY 21ST CENTURY, LIKE 2001 VERSION, 2002, WHERE THE  
22 KIND OF FEATURE YOU DESCRIBED WAS AVAILABLE.

23 Q. ALL RIGHT. LET ME SHOW YOU WHAT --

24 MR. HUMMEL: YOUR HONOR, I BELIEVE IS STIPULATED INTO  
25 EVIDENCE AS EXHIBIT 1239.



# EXHIBIT 24



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- 

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# EXHIBIT 25



BLOG FORUMS



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Nick Gonzalez	Technical Director / Architect
Jeremy Pauding	Technical Director / Gameplay Lead
Andrew J. Anderson	Senior Systems Administrator
Travis Cossairt	Lead Software Engineer
Paul Fleetwood	Lead Software Engineer
Gene Ostrowski	Lead Software Engineer
Jeremy Ouellette	Lead Software Engineer
Billy Bell	Software Engineer
Ser-Geon Fu	Software Engineer
Stephen Goncher	Software Engineer
Andrew Grabish	Software Engineer
Dany Guevara	Software Engineer
Rod Gutierrez	Software Engineer
William Johnson	Software Engineer
Albert Ng	Software Engineer
Mathew Peterson	Software Engineer
Dan Suleski	Software Engineer
Matthew Thiessen	Software Engineer
Jeffrey Yen	Software Engineer

#### UI & WEB DESIGN

Brian Fleming	Lead Interface Designer
Carlos Quijada	Flash Designer
James Butts	Web Designer
Matt Huertas	Web Designer
Tyler Kelley	Web Designer

#### ANIMATION

Bonnie Chong-Panek	Senior Animator
Jay Juneau	Senior Animator
Ronen Lanovoi	Senior Animator
Dan Whiting	Senior Animator

#### CHARACTER ART

Chris MacDonald	Lead Character Modeler
Terry Ford	Senior Character Modeler
Robert Scott Gilbert	Character Modeler
John Grebas	Character Modeler
Jim Rice	Senior Character Modeler

#### ENVIRONMENTS

Milton Trey Sharp	Environment Artist
Anthony Bagsby	Associate Environment Modeler



# EXHIBIT 26

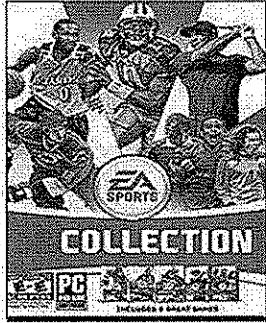


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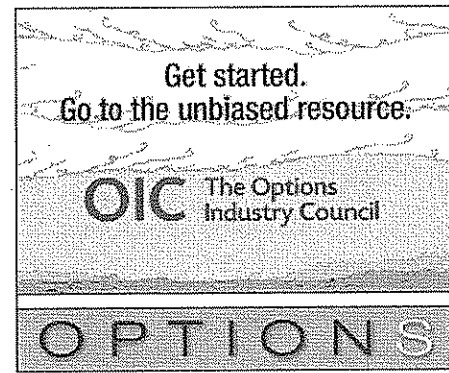
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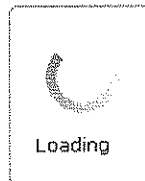
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ELECTRONIC ARTS INC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION JUDICIAL DISTRICT

GEOFFREY PECOVER and JEFFREY  
LAWRENCE, on Behalf of Themselves and  
All Others Similarly Situated,

Plaintiffs,

v.

ELECTRONIC ARTS INC., a Delaware  
Corporation,

Appellant.

CASE NO. C 08-02820 VRW

**DECLARATION OF JILL HAMBURGER IN  
SUPPORT OF DEFENDANT ELECTRONIC  
ARTS INC.'S OPPOSITION TO  
PLAINTIFFS' MOTION FOR CLASS  
CERTIFICATION**

[Redacted Version]



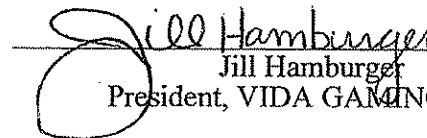
1 I, Jill Hamburger, hereby declare as follows:

2 1. I am currently President of Vida Gaming, Inc. I submit this declaration on  
3 behalf of Electronic Arts Inc. in support of its Opposition to Plaintiffs' Motion for Class  
4 Certification. I am familiar with this litigation and plaintiffs' claims, and I have personal  
5 knowledge of the matters referred to in this declaration. If necessary, I would and could  
6 competently testify to the matters discussed in this declaration.

7 2. Attached hereto as **Exhibit 1** is a true and correct copy of my Expert  
8 Report in Support of EA's Opposition to Plaintiffs' Motion for Class Certification.

9 I declare under penalty of perjury that the foregoing is true and correct to the best  
10 of my knowledge, information, and belief. Executed on February 19, 2009 in St. Paul,  
11 Minnesota.

12 Dated: February 19, 2009

13  
14  
15   
16 Jill Hamburger  
President, VIDA GAMING INC.

17 SFV740056



# **Expert Report of Jill Hamburger**

***Pecover et al. v. Electronic Arts Inc. (N.D. Cal. No. 08-02820 VRW)***

**February 19, 2010**

**EXHIBIT 1 TO J. HAMBURGER DECLARATION  
IN SUPPORT OF EA'S OPPN. TO PL. MOTION FOR CLASS CERTIFICATION  
Confidential – Subject to Protective Order**



**EXHIBIT 1 TO HAMBURGER DECLARATION**  
**Confidential – Subject to Protective Order**

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**EXHIBIT 1 TO HAMBURGER DECLARATION**  
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**I. Biography**

I am Jill Hamburger, President of Vida Gaming, Inc. For the past sixteen years, I have worked in the video gaming industry both in the retail and consulting side of the industry. As President of Vida Gaming, Inc., I provide consulting services to publishers, retailers, manufacturers, and service organizations.

Prior to joining Vida Gaming, Inc., I was the Vice President of Games for Best Buy Co., Inc. ("Best Buy"), a multinational retailer of technology and entertainment products and services. I worked for Best Buy for twenty-one years, fifteen of which were in the gaming industry. I was appointed to the position as Vice President of Games in 1998, and remained in that position until March 2009. In my role, I interacted with consumers, publishers, and other retailers on a daily basis, and conducted and reviewed extensive analyses on videogame sales, marketing, and consumer purchasing patterns.

I have been named to the Video Business' 2008 Women Elite Retailers list, have been recognized as one of the year's leading women in home entertainment by Home Media Magazine in 2008, and was named one of the Top 25 Most Influential People in the Video Gaming Industry by the Wall Street Journal in 2006—the only female leader to be recognized with this honor. Additionally, I have received several awards from Best Buy, including its 2002 World Class Achievement Award, for my contribution to gaming business growth, and the 2007 Legacy Award, for my commitment to the videogame business and long-term success with the company. I also served as a member of the Entertainment Retail Advisory Council board and the Entertainment Merchants Association Board.

I graduated from the University of Minnesota with a bachelor's degree in retail merchandising. A copy of my curriculum vitae is attached hereto as Attachment 1. I have never previously testified in litigation. If additional materials or testimony are made available to me, I may revise my analysis if I am asked to do so.

I am currently being compensated at the rate of \$400 per hour for my work in this matter.

///



**EXHIBIT 1 TO HAMBURGER DECLARATION  
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**II. Summary of Findings<sup>1</sup>**

I have been asked by Electronic Arts Inc. (“EA”) to discuss the competitive dynamics which drive pricing in the videogames industry in the United States.

My professional opinions, discussed in detail in this report, can be summarized as follows:

- The videogame industry is characterized by what I will call “industry standard retail launch pricing.” All premium games on next generation platforms launch at the same retail price from which publishers do not deviate for a substantial period of time, usually months.
- At some point in a game’s shelf life, publishers begin to discount the wholesale price to stimulate retail sales—garnering renewed consumer interest from the more price-sensitive, casual gamer segment.
- Many videogames are sequels with new iterations of a franchise being released periodically. Publishers will discount a game to manage inventory and clear shelf space prior to releasing a new iteration of a franchise.
- Videogame consumers vary significantly in terms of the intensity of their demand for a given title. Broadly speaking, there are hard-core gamers and more casual gamers. The hard-core gamers are the first to purchase, either through pre-sale or within the first several months after launch. These consumers are price insensitive and will pay the full prevailing industry standard retail launch price for a game. The second group of more casual gamers tend to be more price sensitive and will purchase the game after price discounting begins.
- Retailers are content- and genre-agnostic—they care about sell-through, not about the specific titles or genres of videogames. As long as a game continues to sell well, retailers will keep it on their shelves and generally will not discount it, and certainly not by very much. Because retailers want to maximize revenue from the limited shelf space available in their stores, retailers conduct weekly sell-through analyses to determine which games are selling well and deserve shelf space, and which games are underperforming and must be discounted or “pushed off the shelf.”

\\

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<sup>1</sup> All documents cited herein are attached as exhibits to Jacob Schatz’s Declaration In Support Of Defendant Electronic Arts Inc.’s Opposition To Plaintiffs’ Motion For Class Certification [hereinafter Schatz Decl.].



**EXHIBIT 1 TO HAMBURGER DECLARATION**  
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Figures 2 also illustrates the \$59.99 retail price point. Figure 2 is an excerpt from an internal EA document that cataloged the launch prices for EA's 2009 premium games—such as *FIFA 09*, *Madden NFL 09*, *NCAA Football 09*, *NCAA Basketball 09*, *NBA Live 09*, *NHL 09*, *Tiger Woods PGA Tour 09*, *Battlefield: Bad Company*, *Dead Space*, *Godfather 2*, *Lord of the Rings*, *Need for Speed*, *Mercenaries 2*, *Mirror's Edge*, *Saboteur*, and *Skate 2*. All launched at the current industry standard \$59.99 price point on the Xbox 360 and PS3 platforms.<sup>3</sup>

**Figure 2:** *Madden NFL 09* launch overview with inset pricing plan showing industry standard launch prices.<sup>4</sup>

REDACTED

	Launch	Markdown
PS2	\$39.99	\$29.99 (Nov)
PS3	\$59.99	\$49.99 (Nov)
X360	\$59.99	\$49.99 (Nov)
CE	\$89.99	NA
Wii	\$49.99	\$39.99 (Nov)
NDS	\$29.99	NA
PSP	\$39.99	N/A

<sup>3</sup> See Schatz Decl. Ex. 29, NA FY09 Plan – Appendix (Feb. 2008), at EA00030568 (*FIFA 2009*); *id.* at EA00030570 (*Madden NFL 09*); *id.* at EA00030572 (*NCAA Basketball 09*); *id.* at EA00030574 (*NBA Live 2009*); *id.* at EA00030575 (discussing *NCAA Football 09* as “March Madness 09”); *id.* at EA00030578 (*NHL 09*); *id.* at EA00030580 (*Tiger Woods PGA Tour 09*); *id.* at EA00030586 (*Battlefield: Bad Company*); *id.* at EA00030592 (*Dead Space*); *id.* at EA00030594 (*Godfather 2*); *id.* at EA00030596 (*Lord of the Rings*); *id.* at EA00030598 (*Mercenaries 2*); *id.* at EA00030599 (*Mirror's Edge*); *id.* at EA00030600 (*Need for Speed*); *id.* at EA00030601 (*Saboteur*); *id.* at EA00030603 (*Skate 2*).

<sup>4</sup> *Id.* at EA00030570 (emphasis added). See also, e.g., Schatz Decl. Ex. 30, EA Catalog Deep Dive, (Aug. 20 2008), at EA00838020 (“Pricing is higher than last cycle with X360 and PS3 products shipping out at \$59.99 and most only getting to a floor of \$29.99 (vs. \$49.99 launch & \$19.99 value business last cycle).”).



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**Figure 4: Price Discounting To Spur Sell-Through.<sup>10</sup>**

REDACTED

Publishers also routinely plan discounting for seasonal games and during the holiday period. For example, for annual release titles like *Madden NFL*, price discounting at the close of a sports season re-stimulates demand and clears out inventory in preparation for the launch of the game's next iteration.

The holiday season is another planned discounting period. "Holiday gifters" are people who are buying games for others, and thus are not greatly influenced by their own affinity to a specific game title. They are price-sensitive and will consider a range of titles before making a purchase. As a result, publishers plan to discount prices during the holiday period in order to win holiday gift purchases.

Figure 5 below is illustrative of planned holiday discounting.

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<sup>10</sup> *Id.* at EA00803680.



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**Figure 5:** February 2008 launch overview for *NCAA Football 2009* with inset pricing plan showing planned price reductions during the holiday shopping period.<sup>11</sup>

REDACTED

	Launch	Markdown
PS2	\$39.99	\$29.99 (Oct)
PS3	\$59.99	\$49.99 (Nov)
Wii	\$49.99	\$39.99 (Nov)
X360	\$59.99	\$49.99 (Nov)
PSP	\$39.99	\$29.99 (Jan)

The cyclical pricing pattern—industry standard launch pricing followed by discounting over the shelf life of the game—reflects, in part, three characteristics of the videogame industry: (1) many videogames are sequels with new releases being periodically released; (2) videogame consumers vary significantly in terms of the intensity of their demand for a given title, and (3) retailers of videogames are content- and genre-agnostic—they care about sell-through, not about the specific titles or genres of videogames.

**A. Many Videogames Are Sequels That Are Regularly Updated**

Many videogames are sequels that are regularly or periodically updated and re-released as part of a franchise. Sports games, for example, are typically re-released annually to coincide with the underlying sports season. Publishers will discount a game to manage inventory and clear shelf space prior to releasing a new iteration of a franchise. Accordingly, these videogames are akin to perishable items—they have a built in shelf life.

**B. Consumers Vary Significantly In Terms Of Demand Intensity**

Videogame consumers vary significantly in terms of the intensity of their demand for a given title. Gamers' demand intensity covers a spectrum, but in very broad (and admittedly oversimplified) terms, videogame consumers can be divided into hard-core gamers and more casual gamers.

<sup>11</sup> Schatz Decl. Ex. 29, NA FY09 Plan – Appendix (Feb. 2008), at EA00030575 (emphasis added).



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Hardcore gamers are early adopters. They strive to play whatever game is new and hot. It is not atypical for some hardcore gamers to pre-order titles and even to wait in line for hours on release days to obtain the latest and greatest titles. Price is not the primary motivator for these gamers. The majority of videogame sales are made to these early adopters, who purchase at the full, industry standard retail launch price.<sup>12</sup>

More casual gamers buy fewer games per year than hardcore gamers, and do not tend to buy games at or near their launch dates. Rather it is common that more casual gamers wait—typically several months—for games to be discounted. Purchasing decisions of more casual gamers are often influenced by the “buzz” created around hit titles by hardcore gamers. (A recent study by Waggener Edstrom Worldwide found that word of mouth is the largest influencing factor in videogame purchasing.<sup>13</sup>) These consumers are price-sensitive and generally consider a mix of titles while shopping. Consequently, publishers typically compete intensely on price for these elastic consumers. Nearly all discounting is aimed at capturing these elastic consumers.

The key differences between hard core and more casual consumers are when they purchase the games and how much they will pay for them. Hard core gamers purchase within a few months after launch and pay full retail price (standard industry release price); whereas more casual gamers often wait to purchase until after the price has been discounted.

Once sales for a title begin to slow down, retailers will discount the price in order to spur interest and renewed sales from the more casual gamers.

///

<sup>12</sup> See, e.g., Schatz Decl. Ex. 32, Top 5 EA SPORTS Franchises: Consumer Post Mortem Overview (June 2009), at EA00879413 & EA00879423.

<sup>13</sup> See Schatz Decl. Ex. 33, Industry Gamers, *Study: Word of Mouth ‘Largest Influencing Factor’ in Game Purchases*, GameDaily.com, Dec. 18, 2009, <http://www.gamedaily.com/articles/news/study-word-of-mouth-largest-influencing-factor-in-game-purchases/> (discussing Waggener Edstrom Worldwide study).



# EXHIBIT 28



1

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

GEOFFREY PECOVER and JEFFREY  
LAWRENCE, on behalf of  
themselves and a class of  
persons similarly situated,

Plaintiffs,

vs.

CASE NO. 08-cv-02820 VRW

ELECTRONIC ARTS, INC., a  
Delaware Corporation,

Defendants.

~~~~~

CONFIDENTIAL DEPOSITION OF EXPERT  
JILL HAMBURGER

February 26, 2010

9:10 a.m.

715 Hearst Avenue, Suite 202  
Berkeley, California

Anna Steinert, CSR No. 11202



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1 01:29:42 the information would be consistent.

2 01:29:46 Q I believe you said that these weeks represent

3 01:29:50 a range of dates through the holiday season, is that

4 01:29:54 correct, the weeks in the X-axis of this chart?

5 01:29:57 A Usually when you're looking at key launches,

6 01:30:02 based on my experience in the gaming industry, a lot

7 01:30:05 of them happen in the back halves, so it's usually the

8 01:30:09 fall period through the holiday period. Because when

9 01:30:11 you look at -- elastic consumers are more

10 01:30:17 price-sensitive consumers. They tend to buy in the

11 01:30:20 holiday season.

12 01:30:22 Q But you don't actually know what calendar

13 01:30:25 dates these curves correspond to, correct?

14 01:30:29 A I do not know what calendar dates these

15 01:30:32 correspond to.

16 01:30:34 Q On the Y-axis where it says "unit

17 01:30:39 sell-through," what are the units being referred to?

18 01:30:45 A It's illustrative of the particular amount of

19 01:30:49 units of a particular SKU, Week 1 all the way to Week

20 01:30:54 25.

21 01:30:54 Q So Week 1 sold 12,000 units?

22 01:30:57 A Yes. 12,000 units sell-through Week 1 to

23 01:31:05 somewhere less than 2000 by Week 25.

24 01:31:12 Q Staying on this same page, if you look at the

25 01:31:16 first paragraph, do you see where it states, "For



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1 01:31:18 annual release titles like Madden NFL, price  
2 01:31:22 discounting at the close of a sports season  
3 01:31:24 re-stimulates demand"?  
4 01:31:27 A The document reflects the price discounting,  
5 01:31:31 as you read it.  
6 01:31:32 Q So in that sense, the sports season there you  
7 01:31:36 would be referring to is the football season, correct?  
8 01:31:42 A If we're referring to Madden, it would be for  
9 01:31:45 the football season and the next sequel to Madden,  
10 01:31:49 yes.  
11 01:31:50 Q Just to kind of state the obvious, can you  
12 01:31:55 tell me when the NFL football season ends?  
13 01:31:59 A At the Superbowl time frame.  
14 01:32:04 Q I'm going to hand you what I'd like marked  
15 01:32:09 Exhibit 6.  
16 01:32:09 (Deposition Exhibit 6 was marked for  
17 01:32:19 identification by the court reporter.)  
18 01:32:19 BY MR. PAYNTER:  
19 01:32:19 Q I will represent that this is a printout from  
20 01:32:21 your former employer, BestBuy.com.  
21 01:32:31 You can take your time to look through it.  
22 01:32:57 And so right now Madden NFL 10 for Xbox 360  
23 01:33:03 and PS3 is selling for 59.99, correct?  
24 01:33:09 MR. O'MARA: Objection. Assumes facts not in  
25 01:33:25 evidence.



# EXHIBIT 29



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9 Attorneys for Defendant  
10 ELECTRONIC ARTS INC.

11 UNITED STATES DISTRICT COURT  
12  
13 NORTHERN DISTRICT OF CALIFORNIA  
14

15 SAMUEL MICHAEL KELLER, on behalf of  
16 himself and all others similarly situated,

17 Plaintiff,

18 v.

19 ELECTRONIC ARTS INC.; NATIONAL  
20 COLLEGIATE ATHLETICS  
21 ASSOCIATION; COLLEGIATE  
22 LICENSING COMPANY,  
23

24 Defendants.

Case No. CV-09-1967-CW

**ELECTRONIC ARTS INC.'S REPLY IN  
SUPPORT OF ITS MOTION TO DISMISS  
THE COMPLAINT PURSUANT TO FED.  
R. CIV. P. 12(b)(6)**

Date: October 1, 2009  
Time: 2:00 p.m.  
Dept: 2, 4<sup>th</sup> Floor  
Judge: Hon. Claudia Wilken

Date Comp. Filed: May 5, 2009



Contrary to Plaintiff's claims, *see* Opp. at 11:17-12:8, the public interest protection does not capture "anything about sports," but is bounded by long-standing authority barring use of names or likenesses in advertising or for false endorsements. Although Plaintiff only addresses EA's arguments regarding advertisements and false endorsement in a passing footnote, Opp. at 11 n.11, EA's description of them is correct—they demonstrate that successful misappropriation claims generally arise in situations where a person might reasonably confuse the use of the celebrity's name or likeness as an endorsement of the product.<sup>7</sup> Indeed, *CBS Interactive* notes the distinction between the permissible use of the constitutionally protected information, as in a fantasy sports game, and an impermissible use, as in the case of a false endorsement. 2009 WL 1151982, at \*21-22. The distinction based upon commercial exploitation is similarly recognized in the differing outcomes of *Dora v. Frontline Video, Inc.* 15 Cal. App. 4th 536 (1993), and *Downing v. Abercrombie & Fitch*, 265 F.3d 994 (9th Cir. 2001). In *Dora*, the court held that a surfing documentary was entitled to First Amendment protection from right of publicity claims based upon the public's interest in the program's subject matter. 15 Cal. App. 4th at 542-43. In *Downing*, the court rejected First Amendment protection against similar right of publicity claims because the likenesses of the surfers at issue were depicted in a clothing catalog "essentially as window-dressing to advance the catalog's surf theme." 265 F.3d at 1002.

Plaintiff attempts to make much of the fact that EA has entered into agreements involving professional athletes for other games in other contexts. Setting aside the fact that EA's games that simulate professional sports contain substantially more information and verisimilitude than its college games, the content of license agreements with third parties does not bear upon EA's First Amendment protection here. The cases universally recognize that a party's licensing practices have no bearing on whether First Amendment protections exist. In *C.B.C. Distribution*, for example, C.B.C. initially had a license to use football players' likenesses and other information about the players in its fantasy games, but the players' association refused to renew the license. C.B.C. then sued for, and obtained, a judicial declaration that it never needed the license in the first place because its use of the players' likenesses was protected by the First

<sup>7</sup> See Motion at 15, n. 6 (collecting cases).



III. CONCLUSION

For the foregoing reasons, EA respectfully request that the Court dismiss Plaintiff's claims against EA with prejudice.

Dated: September 18, 2009

KEKER & VAN NEST LLP

By: /s/ Robert A. Van Nest

ROBERT A. VAN NEST  
Attorneys for Defendant  
ELECTRONIC ARTS INC.



# EXHIBIT 30



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Innovative rushing controls give you a game-breaking ground attack featuring all-new jukes, cutbacks, and the distinct running styles of your favorite backs. Between the tackles or in the open field, run to daylight with Madden NFL 08. Scout collegiate prospects with the all-new NFL Draft Scouting System Watch players impact their teams with the new Franchise Player Roles feature Use actual plays from your favorite team's defensive playbook to shut down the running game, pressure the quarterback, or force key turnovers.

### Game Available On:

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Developer: EA Tiburon

Genres: [Sports](#)

Brand: [Madden](#)



This title is rated Everyone

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Images

Music



**Madden 08 Sizzle 1**

Players make use of the H1 Stick 2.0 in this video.

00:01:15



**Madden 08 Trailer 1**

See big hits and big plays in this Madden NFL 08 video.

00:00:43



**Madden 08 Trailer 2**

Feel the emotion of the NFL in this Madden NFL 08 video.

00:01:30

EA

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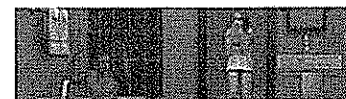
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# EXHIBIT 31



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To file a copyright infringement notification with us, you will need to send a written communication that includes the following (please consult your legal counsel or see Section 512(c)(3) of the DMCA to confirm these requirements):

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- Identification of the copyrighted work claimed to have been infringed.



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16 Attorneys for Plaintiffs

17  
18 UNITED STATES DISTRICT COURT  
19 NORTHERN DISTRICT OF CALIFORNIA  
20 SAN FRANCISCO DIVISION

21 MICHAEL E. DAVIS, aka TONY DAVIS,  
VINCE FERRAGAMO, and BILLY JOE  
22 DUPREE, on behalf of themselves and all  
others similarly situated,

23 Plaintiffs,

24 vs.

25 ELECTRONIC ARTS, INC.,  
26 Defendant.

CASE NO. 10-cv-3328 RS

**DECLARATION OF SONY B. BARARI IN  
SUPPORT OF PLAINTIFFS'  
OPPOSITION TO DEFENDANT  
ELECTRONIC ARTS, INC.'S MOTION  
TO DISMISS AND ANTI-SLAPP  
MOTION TO STRIKE**

Date: January 26, 2012

Time: 1:30 p.m.

Judge: The Honorable Richard Seeborg

Ctrm: 3, 17<sup>th</sup> Floor



1 I, Sony B. Barari, declare:

2 1. I am an attorney licensed to practice in the State of California and in the Northern  
3 District of California, and an associate at the law firm of Thomas Whitelaw LLP, counsel for  
4 Plaintiffs Michael E. Davis, Vince Ferragamo, and Billy Joe Dupree (collectively, "Plaintiffs") in  
5 this action. I make this declaration in support of Plaintiffs' Opposition to Defendant Electronic  
6 Arts, Inc.'s Motion to Dismiss and Anti-SLAPP motion to strike. The facts stated herein are true  
7 of my own knowledge, unless otherwise stated, and if called to testify I could and would testify to  
8 those facts.

9 **Game Editions and Versions**

10 2. Plaintiff's counsel is in possession of each of the games listed in paragraphs 3  
11 through 48.

12 3. Attached hereto as **Exhibit 1** are true and correct copies of the game covers of the  
13 Madden NFL '01, Madden NFL '02, Madden NFL '03, Madden NFL '04, and Madden NFL '05  
14 video games for the Sony Playstation.

15 4. Attached hereto as **Exhibit 2** are true and correct copies of the game covers of the  
16 Madden NFL '01, Madden NFL '02, Madden NFL '03, Madden NFL '04, Madden NFL '05,  
17 Madden NFL '06, Madden NFL '07, Madden NFL '08, and Madden NFL '09 video games for the  
18 Sony Playstation 2.

19 5. Attached hereto as **Exhibit 3** are true and correct copies of the game covers of the  
20 Madden NFL '06, Madden NFL '07, and Madden NFL '08 video games for the Sony PSP.

21 6. Attached hereto as **Exhibit 4** are true and correct copies of the game covers of the  
22 Madden NFL '02, Madden NFL '03, Madden NFL '04, Madden NFL '05, Madden NFL '06,  
23 Madden NFL '07, Madden NFL '08, and Madden NFL '09 video games for the Microsoft Xbox.

24 7. Attached hereto as **Exhibit 5** are true and correct copies of the game covers of the  
25 Madden NFL '02, Madden NFL '03, Madden NFL '04, Madden NFL '05, Madden NFL '06,  
26 Madden NFL '07, and Madden NFL '08 video games for the Nintendo Gamecube.

27 8. Attached hereto as **Exhibit 6** are true and correct copies of the game covers of the  
28 Madden NFL '06, Madden NFL '07, Madden NFL '08, and Madden NFL '09 video games for the



1 Nintendo DS.

2 9. Attached hereto as **Exhibit 7** are true and correct copies of the game covers of the  
3 Madden NFL '07, Madden NFL '08, and Madden NFL '09 video games for the Nintendo Wii.

4 10. Attached hereto as **Exhibit 8** are true and correct copies of the game covers of the  
5 Madden NFL '03, Madden NFL '04, Madden NFL '05, Madden NFL '06, Madden NFL '07, and  
6 Madden NFL '08 video games for the PC.

#### 7 8 Screen Captures - Methodology

9 11. "Screen captures," as hereinafter referred to in this declaration, were obtained using  
10 the following methodology: For the Sony Playstation, Sony Playstation 2, Sony PSP, Microsoft  
11 Xbox, Nintendo Gamecube, and Nintendo Wii, the screen captures were created by using a  
12 computer video capture card to take the images directly from the game console video output. For  
13 the PC, the screen captures were created by using the "Print Screen" function of Microsoft  
14 Windows. For the Nintendo DS, the screen captures were created by using a handheld camera to  
15 take photos of the screen display. I did not alter in any way the default information contained in  
16 any of the games during any of these processes.

17 12. To access the individual player information screens that are hereinafter attached as  
18 exhibits, I navigated the games in the following manner: For games with a "Historic Teams"  
19 roster function available from the main menu, I selected the applicable team and then selected the  
20 "Edit Rosters" function to access the specific player biographical information, then selected "Edit  
21 Player" and scrolled to the "Appearance" screen for additional information. (Sony PS2 for the  
22 years 2004, 2005, 2006, 2007, 2008, 2009; Microsoft Xbox 2004, 2005, 2006, 2007, 2008, 2009;  
23 Nintendo Gamecube 2004, 2005, 2006, 2006, 2007, 2008; Nintendo Wii 2007) For games with a  
24 "Player Management" function available from the main menu, I selected the applicable team to  
25 access the specific player biographical information, and then selected "Create/Edit Player" and  
26 scrolled to the "Appearance" screen for additional information. (PC 2003, 2004, 2005, 2006,  
27 2007, 2008) For games that did not feature such direct access from the main menu, I initiated a  
28 game using the applicable team and once the specific player had accumulated some in-game



1 statistics, I accessed their listed biographical information from the “Individual” “Stats/Info”  
 2 function available from the in-game pause menu. (Sony PS 2001, 2002, 2003, 2004, 2005; Sony  
 3 PS2 2001, 2002, 2003; Sony PSP 2006, 2007, 2008, 2009; Microsoft Xbox 2002, 2003; Nintendo  
 4 Gamecube 2002, 2003; Nintendo DS 2006, 2007, 2008, 2009; Nintendo Wii 2008, 2009) I did not  
 5 alter in any way the default biographical information contained in any of the games during any of  
 6 these processes.

### 7 8 Historic Teams

9 13. True and correct screen captures taken from the 2009 edition of the Madden NFL  
 10 video game for the Sony Playstation 2 indicating historic teams included in the game are attached  
 11 as **Exhibit 9**.

12 14. Attached hereto as **Exhibit 10** is a true and correct copy of excerpts of the 1979  
 13 Los Angeles Rams Media Guide (Rams Public Relations Department) containing biographical  
 14 information regarding Plaintiff Vince Ferragamo.

15 15. Attached hereto as **Exhibit 11** is a true and correct copy of excerpts of the 1984  
 16 Los Angeles Rams Media Guide (Rams Public Relations Department) containing biographical  
 17 information regarding Plaintiff Vince Ferragamo.

18 16. Attached hereto as **Exhibit 12** is a true and correct copy of excerpts from the 1979  
 19 Tampa Bay Buccaneers Media Guide containing biographical information regarding Plaintiff  
 20 Tony Davis.

21 17. Attached hereto as **Exhibit 13** is a true and correct copy of excerpts of the 1975  
 22 Dallas Cowboys Media Guide containing biographical information regarding Plaintiff Billy Joe  
 23 Dupree.

24 18. Attached hereto as **Exhibit 14** is a true and correct copy of excerpts of the 1977  
 25 Dallas Cowboys Media Guide containing biographical information regarding Plaintiff Billy Joe  
 26 Dupree.

27 19. Attached hereto as **Exhibit 15** is a true and correct copy of excerpts of the Football  
 28 Register, 1978 Edition (The Sporting News, 1978) containing biographical information regarding



1 Plaintiff Billy Joe Dupree.

2 20. Attached hereto as **Exhibit 16** is a true and correct copy of excerpts of the 1979  
3 Dallas Cowboys Media Guide containing biographical information regarding Plaintiff Billy Joe  
4 Dupree.

5 21. Attached hereto as **Exhibit 17** is a true and correct copy of excerpts of the 1981  
6 Dallas Cowboys Media Guide containing biographical information regarding Plaintiff Billy Joe  
7 Dupree.

8

9 **Screen Captures – 1979 Los Angeles Rams, Vince Ferragamo**

10 22. Attached hereto as **Exhibit 18** are screen captures of the avatar and/or player  
11 information from the 1979 Los Angeles Rams historic team which Plaintiff Vince Ferragamo  
12 alleges features his likeness, taken from the Madden NFL '01, Madden NFL '02, Madden NFL  
13 '03, Madden NFL '04, and Madden NFL '05 video games for the Sony Playstation.

14 23. Attached hereto as **Exhibit 19** are screen captures of the avatar and/or player  
15 information from the 1979 Los Angeles Rams historic team which Plaintiff Vince Ferragamo  
16 alleges features his likeness, taken from the Madden NFL '01, Madden NFL '02, Madden NFL  
17 '03, Madden NFL '04, Madden NFL '05, Madden NFL '06, Madden NFL '07, Madden NFL '08,  
18 and Madden NFL '09 video games for the Sony Playstation 2.

19 24. Attached hereto as **Exhibit 20** are screen captures of the avatar and/or player  
20 information from the 1979 Los Angeles Rams historic team which Plaintiff Vince Ferragamo  
21 alleges features his likeness, taken from the Madden NFL '06, Madden NFL '07, Madden NFL  
22 '08, and Madden NFL '09 video games for the Sony PSP.

23 25. Attached hereto as **Exhibit 21** are screen captures of the avatar and/or player  
24 information from the 1979 Los Angeles Rams historic team which Plaintiff Vince Ferragamo  
25 alleges features his likeness, taken from the Madden NFL '02, Madden NFL '03, Madden NFL  
26 '04, Madden NFL '05, Madden NFL '06, Madden NFL '07, Madden NFL '08, and Madden NFL  
27 '09 video games for the Microsoft Xbox.

28 26. Attached hereto as **Exhibit 22** are screen captures of the avatar and/or player



information from the 1979 Los Angeles Rams historic team which Plaintiff Vince Ferragamo alleges features his likeness, taken from the Madden NFL '02, Madden NFL '03, Madden NFL '04, Madden NFL '05, Madden NFL '06, Madden NFL '07, and Madden NFL '08 video games for the Nintendo Gamecube.

27. Attached hereto as **Exhibit 23** are screen captures of the avatar and/or player information from the 1979 Los Angeles Rams historic team which Plaintiff Vince Ferragamo alleges features his likeness, taken from the Madden NFL '06, Madden NFL '07, Madden NFL '08, and Madden NFL '09 video games for the Nintendo DS.

28. Attached hereto as **Exhibit 24** are screen captures of the avatar and/or player information from the 1979 Los Angeles Rams historic team which Plaintiff Vince Ferragamo alleges features his likeness, taken from the Madden NFL '07, Madden NFL '08, and Madden NFL '09 video games for the Nintendo Wii.

29. Attached hereto as **Exhibit 25** are screen captures of the avatar and/or player information from the 1979 Los Angeles Rams historic team which Plaintiff Vince Ferragamo alleges features his likeness, taken from the Madden NFL '03, Madden NFL '04, Madden NFL '05, Madden NFL '06, Madden NFL '07, and Madden NFL '08 video games for the PC.

#### **Screen Captures - 1984 Los Angeles Rams, Vince Ferragamo**

30. Attached hereto as **Exhibit 26** are screen captures of the avatar and/or player information from the 1984 Los Angeles Rams historic team which Plaintiff Vince Ferragamo alleges features his likeness, taken from the Madden NFL '01, Madden NFL '02, Madden NFL '03, Madden NFL '04, and Madden NFL '05 video games for the Sony Playstation.

31. Attached hereto as **Exhibit 27** are screen captures of the avatar and/or player information from the 1984 Los Angeles Rams historic team which Plaintiff Vince Ferragamo alleges features his likeness, taken from the Madden NFL '01, Madden NFL '02, Madden NFL '03, Madden NFL '04, Madden NFL '05, Madden NFL '06, Madden NFL '07, Madden NFL '08, and Madden NFL '09 video games for the Sony Playstation 2.

32. Attached hereto as **Exhibit 28** are screen captures of the avatar and/or player



1 information from the 1984 Los Angeles Rams historic team which Plaintiff Vince Ferragamo  
 2 alleges features his likeness, taken from the Madden NFL '06, Madden NFL '07, Madden NFL  
 3 '08, and Madden NFL '09 video games for the PSP.

4 33. Attached hereto as **Exhibit 29** are screen captures of the avatar and/or player  
 5 information from the 1984 Los Angeles Rams historic team which Plaintiff Vince Ferragamo  
 6 alleges features his likeness, taken from the Madden NFL '02, Madden NFL '03, Madden NFL  
 7 '04, Madden NFL '05, Madden NFL '06, Madden NFL '07, Madden NFL '08, and Madden NFL  
 8 '09 video games for the Microsoft Xbox.

9 34. Attached hereto as **Exhibit 30** are screen captures of the avatar and/or player  
 10 information from the 1984 Los Angeles Rams historic team which Plaintiff Vince Ferragamo  
 11 alleges features his likeness, taken from the Madden NFL '02, Madden NFL '03, Madden NFL  
 12 '04, Madden NFL '05, Madden NFL '06, Madden NFL '07, and Madden NFL '08 video games  
 13 for the Nintendo Gamecube.

14 35. Attached hereto as **Exhibit 31** are screen captures of the avatar and/or player  
 15 information from the 1984 Los Angeles Rams historic team which Plaintiff Vince Ferragamo  
 16 alleges features his likeness, taken from the Madden NFL '06, Madden NFL '07, Madden NFL  
 17 '08, and Madden NFL '09 video games for the Nintendo DS.

18 36. Attached hereto as **Exhibit 32** are screen captures of the avatar and/or player  
 19 information from the 1984 Los Angeles Rams historic team which Plaintiff Vince Ferragamo  
 20 alleges features his likeness, taken from the Madden NFL '07, Madden NFL '08, and Madden  
 21 NFL '09 video games for the Nintendo Wii.

22 37. Attached hereto as **Exhibit 33** are screen captures of the avatar and/or player  
 23 information from the 1984 Los Angeles Rams historic team which Plaintiff Vince Ferragamo  
 24 alleges features his likeness, taken from the Madden NFL '03, Madden NFL '04, Madden NFL  
 25 '05, Madden NFL '06, Madden NFL '07, and Madden NFL '08 video games for the PC.

26  
 27 **Screen Captures - 1979 Tampa Bay Buccaneers, Michael E. "Tony" Davis**

28 38. Attached hereto as **Exhibit 34** are screen captures of the avatar and/or player



1 information from the 1979 Tampa Bay Buccaneers historic team which Plaintiff Michael E. “Tony  
 2 Davis” (hereafter, “Tony Davis”) alleges features his likeness, taken from the Madden NFL ’01,  
 3 Madden NFL ’02, Madden NFL ’03, Madden NFL ’04, and Madden NFL ’05 video games for the  
 4 Sony Playstation.

5 39. Attached hereto as **Exhibit 35** are screen captures of the avatar and/or player  
 6 information from the 1979 Tampa Bay Buccaneers historic team which Plaintiff Tony Davis  
 7 alleges features his likeness, taken from the Madden NFL ’01, Madden NFL ’02, Madden NFL  
 8 ’03, Madden NFL ’04, Madden NFL ’05, Madden NFL ’06, Madden NFL ’07, Madden NFL ’08,  
 9 and Madden NFL ’09 video games for the Sony Playstation 2.

10 40. Attached hereto as **Exhibit 36** are screen captures of the avatar and/or player  
 11 information from the 1979 Tampa Bay Buccaneers historic team which Plaintiff Tony Davis  
 12 alleges features his likeness, taken from the Madden NFL ’06, Madden NFL ’07, Madden NFL  
 13 ’08, and Madden NFL ’09 video games for the PSP.

14 41. Attached hereto as **Exhibit 37** are screen captures of the avatar and/or player  
 15 information from the 1979 Tampa Bay Buccaneers historic team which Plaintiff Tony Davis  
 16 alleges features his likeness, taken from the Madden NFL ’02, Madden NFL ’03, Madden NFL  
 17 ’04, Madden NFL ’05, Madden NFL ’06, Madden NFL ’07, Madden NFL ’08, and Madden NFL  
 18 ’09 video games for the Microsoft Xbox.

19 42. Attached hereto as **Exhibit 38** are screen captures of the avatar and/or player  
 20 information from the 1979 Tampa Bay Buccaneers historic team which Plaintiff Tony Davis  
 21 alleges features his likeness, taken from the Madden NFL ’02, Madden NFL ’03, Madden NFL  
 22 ’04, Madden NFL ’05, Madden NFL ’06, Madden NFL ’07, and Madden NFL ’08 video games  
 23 for the Nintendo Gamecube.

24 43. Attached hereto as **Exhibit 39** are screen captures of the avatar and/or player  
 25 information from the 1979 Tampa Bay Buccaneers historic team which Plaintiff Tony Davis  
 26 alleges features his likeness, taken from the Madden NFL ’06, Madden NFL ’07, Madden NFL  
 27 ’08, and Madden NFL ’09 video games for the Nintendo DS.

28 44. Attached hereto as **Exhibit 40** are screen captures of the avatar and/or player



information from the 1979 Tampa Bay Buccaneers historic team which Plaintiff Tony Davis alleges features his likeness, taken from the Madden NFL '07, Madden NFL '08, and Madden NFL '09 video games for the Nintendo Wii.

45. Attached hereto as **Exhibit 41** are screen captures of the avatar and/or player information from the 1979 Tampa Bay Buccaneers historic team which Plaintiff Tony Davis alleges features his likeness, taken from the Madden NFL '03, Madden NFL '04, Madden NFL '05, Madden NFL '06, Madden NFL '07, and Madden NFL '08 video games for the PC.

#### **Screen Captures - 1975 Dallas Cowboys, Billy Joe Dupree**

46. Attached hereto as **Exhibit 42** are screen captures of the avatar and/or player information from the 1975 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges features his likeness, taken from the Madden NFL '01, Madden NFL '02, Madden NFL '03, Madden NFL '04, Madden NFL '05, Madden NFL '06, Madden NFL '07, Madden NFL '08, and Madden NFL '09 video games for the Sony Playstation 2.

47. Attached hereto as **Exhibit 43** are screen captures of the avatar and/or player information from the 1975 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges features his likeness, taken from the Madden NFL '06, Madden NFL '07, Madden NFL '08, and Madden NFL '09 video games for the PSP.

48. Attached hereto as **Exhibit 44** are screen captures of the avatar and/or player information from the 1975 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges features his likeness, taken from the Madden NFL '02, Madden NFL '04, Madden NFL '05, Madden NFL '06, Madden NFL '07, Madden NFL '08, and Madden NFL '09 video games for the Microsoft Xbox.

49. Attached hereto as **Exhibit 45** are screen captures of the avatar and/or player information from the 1975 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges features his likeness, taken from the Madden NFL '02, Madden NFL '03, Madden NFL '04, Madden NFL '05, Madden NFL '06, Madden NFL '07, and Madden NFL '08 video games for the Nintendo Gamecube.



1           50. Attached hereto as **Exhibit 46** are screen captures of the avatar and/or player  
2 information from the 1975 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges  
3 features his likeness, taken from the Madden NFL '07, Madden NFL '08, and Madden NFL '09  
4 video games for the Nintendo Wii.

5           51. Attached hereto as **Exhibit 47** are screen captures of the avatar and/or player  
6 information from the 1975 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges  
7 features his likeness, taken from the Madden NFL '03, Madden NFL '04, Madden NFL '05,  
8 Madden NFL '06, Madden NFL '07, and Madden NFL '08 video games for the PC.

9  
10                           **Screen Captures – 1977 Dallas Cowboys, Billy Joe Dupree**

11           52. Attached hereto as **Exhibit 48** are screen captures of the avatar and/or player  
12 information from the 1977 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges  
13 features his likeness, taken from the Madden NFL '01, Madden NFL '02, Madden NFL '03,  
14 Madden NFL '04, and Madden NFL '05 video games for the Sony Playstation.

15           53. Attached hereto as **Exhibit 49** are screen captures of the avatar and/or player  
16 information from the 1977 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges  
17 features his likeness, taken from the Madden NFL '01, Madden NFL '02, Madden NFL '03,  
18 Madden NFL '04, Madden NFL '05, Madden NFL '06, Madden NFL '07, Madden NFL '08, and  
19 Madden NFL '09 video games for the Sony Playstation 2.

20           54. Attached hereto as **Exhibit 50** are screen captures of the avatar and/or player  
21 information from the 1977 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges  
22 features his likeness, taken from the Madden NFL '06, Madden NFL '07, Madden NFL '08, and  
23 Madden NFL '09 video games for the PSP.

24           55. Attached hereto as **Exhibit 51** are screen captures of the avatar and/or player  
25 information from the 1977 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges  
26 features his likeness, taken from the Madden NFL '02, Madden NFL '03, Madden NFL '04,  
27 Madden NFL '05, Madden NFL '06, Madden NFL '07, Madden NFL '08, and Madden NFL '09  
28 video games for the Microsoft Xbox.



56. Attached hereto as **Exhibit 52** are screen captures of the avatar and/or player information from the 1977 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges features his likeness, taken from the Madden NFL '02, Madden NFL '03, Madden NFL '04, Madden NFL '05, Madden NFL '06, Madden NFL '07, and Madden NFL '08 video games for the Nintendo Gamecube.

57. Attached hereto as **Exhibit 53** are screen captures of the avatar and/or player information from the 1977 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges features his likeness, taken from the Madden NFL '06, Madden NFL '07, Madden NFL '08, and Madden NFL '09 video games for the Nintendo DS.

58. Attached hereto as **Exhibit 54** are screen captures of the avatar and/or player information from the 1977 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges features his likeness, taken from the Madden NFL '07, Madden NFL '08, and Madden NFL '09 video games for the Nintendo Wii.

59. Attached hereto as **Exhibit 55** are screen captures of the avatar and/or player information from the 1977 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges features his likeness, taken from the Madden NFL '03, Madden NFL '04, Madden NFL '05, Madden NFL '06, Madden NFL '07, Madden NFL '08, and Madden NFL '09 video games for the PC.

#### **Screen Captures – 1978 Dallas Cowboys, Billy Joe Dupree**

60. Attached hereto as **Exhibit 56** is a screen capture of the avatar and/or player information from the 1978 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges features his likeness, taken from the the Madden NFL '01 video game for the Sony Playstation.

61. Attached hereto as **Exhibit 57** is a screen capture of the avatar and/or player information from the 1978 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges features his likeness, taken from the Madden NFL '01, Madden NFL '02, Madden NFL '03, Madden NFL '04, Madden NFL '05, Madden NFL '06, Madden NFL '07, Madden NFL '08, and Madden NFL '09 video games for the Sony Playstation 2.



62. Attached hereto as **Exhibit 58** are screen captures of the avatar and/or player information from the 1978 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges features his likeness, taken from the Madden NFL '06, Madden NFL '07, Madden NFL '08, and Madden NFL '09 video games for the PSP.

63. Attached hereto as **Exhibit 59** are screen captures of the avatar and/or player information from the 1978 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges features his likeness, taken from the Madden NFL '02, Madden NFL '03, Madden NFL '04, Madden NFL '05, Madden NFL '06, Madden NFL '07, Madden NFL '08, and Madden NFL '09 video games for the Microsoft Xbox.

64. Attached hereto as **Exhibit 60** are screen captures of the avatar and/or player information from the 1978 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges features his likeness, taken from the Madden NFL '02, Madden NFL '03, Madden NFL '04, Madden NFL '05, Madden NFL '06, Madden NFL '07, and Madden NFL '08 video games for the Nintendo Gamecube.

65. Attached hereto as **Exhibit 61** are screen captures of the avatar and/or player information from the 1978 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges features his likeness, taken from the Madden NFL '07, Madden NFL '08, and Madden NFL '09 video games for the Nintendo Wii.

66. Attached hereto as **Exhibit 62** are screen captures of the avatar and/or player information from the 1978 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges features his likeness, taken from the Madden NFL '03, Madden NFL '04, Madden NFL '05, Madden NFL '06, Madden NFL '07, and Madden NFL '08 games for the PC.

#### **Screen Captures – 1979 Dallas Cowboys, Billy Joe Dupree**

67. Attached hereto as **Exhibit 63** are screen captures of the avatar and/or player information from the 1979 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges features his likeness, taken from the Madden NFL '01, Madden NFL '02, Madden NFL '03, Madden NFL '04, and Madden NFL '05 video games for the Sony Playstation.



68. Attached hereto as **Exhibit 64** are screen captures of the avatar and/or player information from the 1979 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges features his likeness, taken from the Madden NFL '02, Madden NFL '03, Madden NFL '04, Madden NFL '05, Madden NFL '06, Madden NFL '07, Madden NFL '08, and Madden NFL '09 video games for the Sony Playstation 2.

69. Attached hereto as **Exhibit 65** are screen captures of the avatar and/or player information from the 1979 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges features his likeness, taken from the Madden NFL '06, Madden NFL '07, Madden NFL '08, and Madden NFL '09 video games for the PSP.

70. Attached hereto as **Exhibit 66** are screen captures of the avatar and/or player information from the 1979 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges features his likeness, taken from the Madden NFL '02, Madden NFL '03, Madden NFL '04, Madden NFL '05, Madden NFL '06, Madden NFL '07, Madden NFL '08, and Madden NFL '09 video games for the Microsoft Xbox.

71. Attached hereto as **Exhibit 67** are screen captures of the avatar and/or player information from the 1979 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges features his likeness, taken from the Madden NFL '02, Madden NFL '03, Madden NFL '04, Madden NFL '05, Madden NFL '06, Madden NFL '07, and Madden NFL '08 video games for the Nintendo Gamecube.

72. Attached hereto as **Exhibit 68** are screen captures of the avatar and/or player information from the 1979 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges features his likeness, taken from the Madden NFL '06, Madden NFL '07, Madden NFL '08, and Madden NFL '09 video games for the Nintendo DS.

73. Attached hereto as **Exhibit 69** are screen captures of the avatar and/or player information from the 1979 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges features his likeness, taken from the Madden NFL '07, Madden NFL '08, and Madden NFL '09 video games for the Nintendo Wii.

74. Attached hereto as **Exhibit 70** are screen captures of the avatar and/or player



1 information from the 1979 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges  
2 features his likeness, taken from the Madden NFL '03, Madden NFL '04, Madden NFL '05,  
3 Madden NFL '06, Madden NFL '07, and Madden NFL '08 video games for the PC.

4  
5 **Screen Captures - 1981 Dallas Cowboys, Billy Joe Dupree**

6 75. Attached hereto as **Exhibit 71** are screen captures of the avatar and/or player  
7 information from the 1981 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges  
8 features his likeness, taken from the Madden NFL '01, Madden NFL '02, Madden NFL '03,  
9 Madden NFL '04, and Madden NFL '05 video games for the Sony Playstation.

10 76. Attached hereto as **Exhibit 72** are screen captures of the avatar and/or player  
11 information from the 1981 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges  
12 features his likeness, taken from the Madden NFL '01, Madden NFL '02, Madden NFL '03,  
13 Madden NFL '04, Madden NFL '05, Madden NFL '06, Madden NFL '07, Madden NFL '08, and  
14 Madden NFL '09 video games for the Sony Playstation 2.

15 77. Attached hereto as **Exhibit 73** are screen captures of the avatar and/or player  
16 information from the 1981 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges  
17 features his likeness, taken from the Madden NFL '06, Madden NFL '07, Madden NFL '08, and  
18 Madden NFL '09 video games for the PSP.

19 78. Attached hereto as **Exhibit 74** are screen captures of the avatar and/or player  
20 information from the 1981 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges  
21 features his likeness, taken from the Madden NFL '02, Madden NFL '03, Madden NFL '04,  
22 Madden NFL '05, Madden NFL '06, Madden NFL '07, Madden NFL '08, and Madden NFL '09  
23 video games for the Microsoft Xbox.

24 79. Attached hereto as **Exhibit 75** are screen captures of the avatar and/or player  
25 information from the 1981 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges  
26 features his likeness, taken from the Madden NFL '02, Madden NFL '03, Madden NFL '04,  
27 Madden NFL '05, Madden NFL '06, Madden NFL '07, and Madden NFL '08 video games for the  
28 Nintendo Gamecube.



80. Attached hereto as **Exhibit 76** are screen captures of the avatar and/or player information from the 1981 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges features his likeness, taken from the Madden NFL '06, Madden NFL '07, Madden NFL '08, and Madden NFL '09 video games for the Nintendo DS.

81. Attached hereto as **Exhibit 77** are screen captures of the avatar and/or player information from the 1981 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges features his likeness, taken from the Madden NFL '07, Madden NFL '08, and Madden NFL '09 video games for the Nintendo Wii.

82. Attached hereto as **Exhibit 78** are screen captures of the avatar and/or player information from the 1981 Dallas Cowboys historic team which Plaintiff Billy Joe Dupree alleges features his likeness, taken from the Madden NFL '03, Madden NFL '04, Madden NFL '05, Madden NFL '06, Madden NFL '07, and Madden NFL '08 video games for the PC.

#### Screen Captures – Rosters

83. Attached hereto as **Exhibit 79** are screen captures of the “historic” 1979 Tampa Bay Buccaneers roster and biographical information from the Madden NFL '01 video game for the Sony Playstation 2.

84. Attached hereto as **Exhibit 80** are screen captures of the “historic” 1979 Tampa Bay Buccaneers roster and biographical information from the Madden NFL '02 video game for the Sony Playstation 2.

85. Attached hereto as **Exhibit 81** are screen captures of the “historic” 1979 Tampa Bay Buccaneers roster and biographical information from the Madden NFL '03 video game for the Sony Playstation 2.

86. Attached hereto as **Exhibit 82** are screen captures of the “historic” 1979 Tampa Bay Buccaneers roster and biographical information from the Madden NFL '04 video game for the Sony Playstation 2.

87. Attached hereto as **Exhibit 83** are screen captures of the “historic” 1979 Tampa Bay Buccaneers roster and biographical information from the Madden NFL '09 video game for the



1 Sony Playstation 2.

2 88. Attached hereto as **Exhibit 84** is a true and correct copy of excerpts from the 1979  
3 Tampa Bay Buccaneers Media Guide featuring roster and biographical information.

4 89. Attached hereto as **Exhibit 85** are screen captures of the “historic” 1979 Los  
5 Angeles Rams roster and biographical information from the Madden NFL ‘01 video game for the  
6 Sony Playstation 2.

7 90. Attached hereto as **Exhibit 86** are screen captures of the “historic” 1979 Los  
8 Angeles Rams roster and biographical information from the Madden NFL ‘02 video game for the  
9 Sony Playstation 2.

10 91. Attached hereto as **Exhibit 87** are screen captures of the “historic” 1979 Los  
11 Angeles Rams roster and biographical information from the Madden NFL ‘03 video game for the  
12 Sony Playstation 2.

13 92. Attached hereto as **Exhibit 88** are screen captures of the “historic” 1979 Los  
14 Angeles Rams roster and biographical information from the Madden NFL ‘04 video game for the  
15 Sony Playstation 2.

16 93. Attached hereto as **Exhibit 89** are screen captures of the “historic” 1979 Los  
17 Angeles Rams roster and biographical information from the Madden NFL ‘09 video game for the  
18 Sony Playstation 2.

19 94. Attached hereto as **Exhibit 90** is a true and correct copy of excerpts from the 1979  
20 Los Angeles Rams Media Guide featuring roster and biographical information.

21 95. Attached hereto as **Exhibit 91** are screen captures of the “historic” 1975 Dallas  
22 Cowboys roster and biographical information from the Madden NFL ‘01 video game for the Sony  
23 Playstation 2.

24 96. Attached hereto as **Exhibit 92** are screen captures of the “historic” 1975 Dallas  
25 Cowboys roster and biographical information from the Madden NFL ‘02 video game for the Sony  
26 Playstation 2.

27 97. Attached hereto as **Exhibit 93** are screen captures of the “historic” 1975 Dallas  
28 Cowboys roster and biographical information from the Madden NFL ‘03 video game for the Sony



1 Playstation 2.

2 98. Attached hereto as **Exhibit 94** are screen captures of the “historic” 1975 Dallas  
3 Cowboys roster and biographical information from the Madden NFL ‘04 video game for the Sony  
4 Playstation 2.

5 99. Attached hereto as **Exhibit 95** are screen captures of the “historic” 1975 Dallas  
6 Cowboys roster and biographical information from the Madden NFL ‘09 video game for the Sony  
7 Playstation 2.

8 100. Attached hereto as **Exhibit 96** is a true and correct copy of excerpts from the 1975  
9 Dallas Cowboys Media Guide featuring roster and biographical information.

10

11 **Player Editing Capability**

12 101. Attached hereto as **Exhibit 97** are screen captures taken from the Madden NFL ‘04  
13 video game for the Sony Playstation 2 of the historic team and player editing functions which  
14 allow the user to change the names and numbers of avatars included in the game.

15

16 I declare under penalty of perjury under the laws of the United States of America that the  
17 foregoing is true and correct.

18 Executed on January 5, 2012, at San Francisco, CA.

19

20

21 /s/ Sony B. Barari  
22 SONY B. BARARI

23

24

25

26

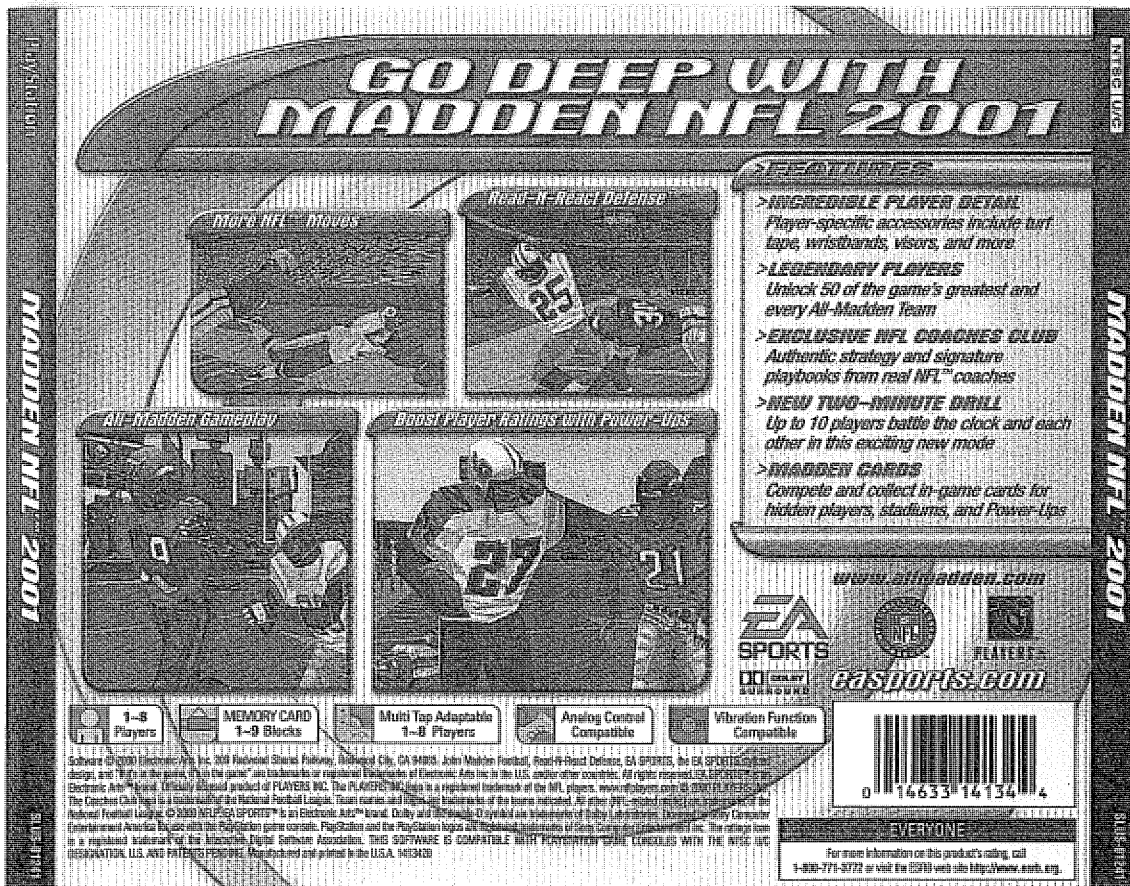
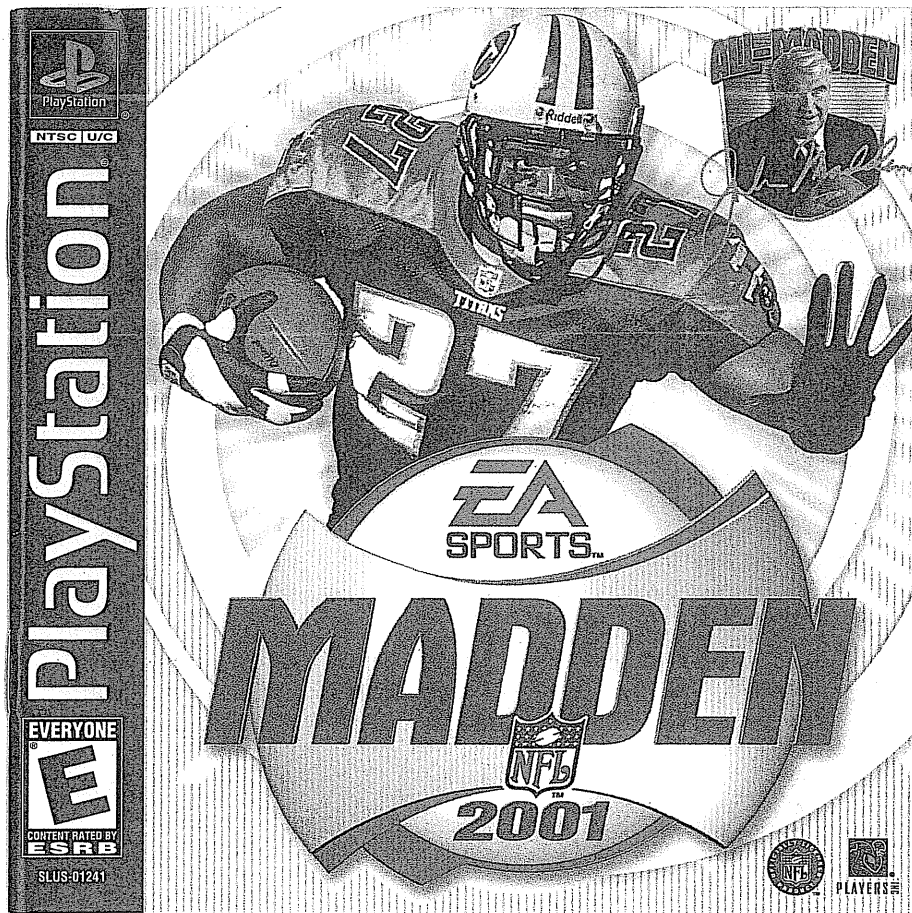
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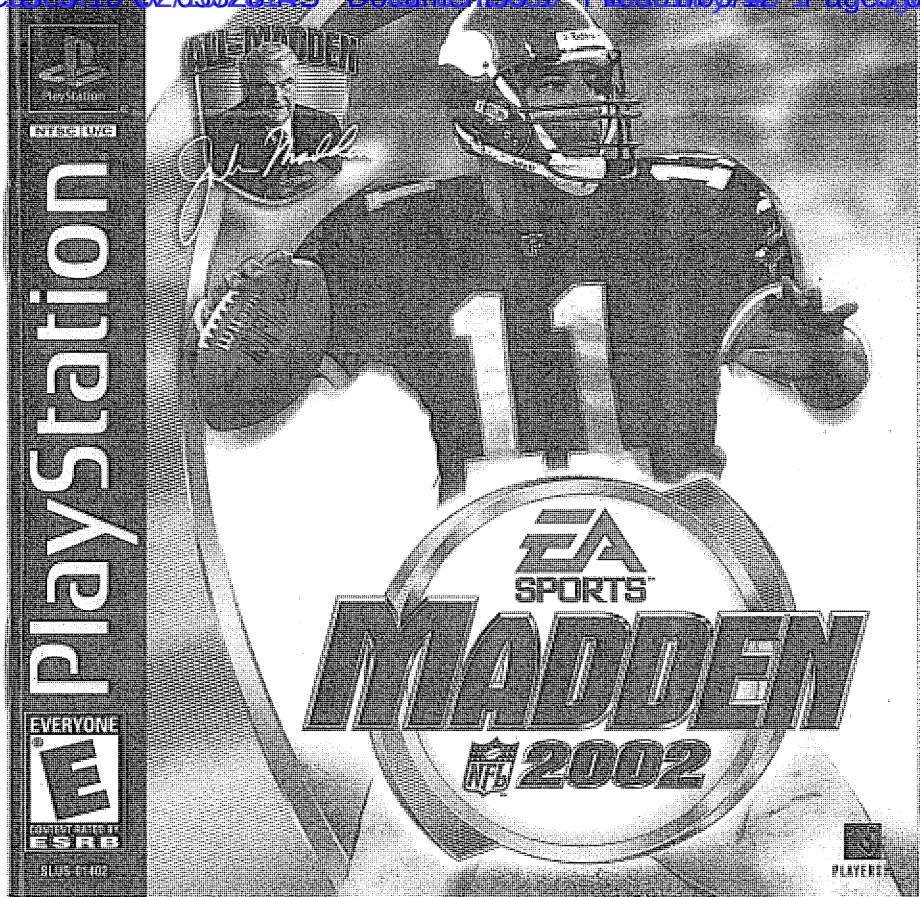


# EXHIBIT 1









MADDEN NFL 2002

NTSC U/C

# #1 FOR A REASON

**DOMINATE THE GROUND GAME**

**JUKE FOR EXTRA YARDAGE**

**BEAT THE COVERAGE DEEP**

**MORE TENACIOUS DEFENSE**

**FEATURES**

- **KICK OFF THE SEASON WITH THE NEWEST NFL™ TEAM**  
Take the field with all 32 NFL teams including the expansion Houston Texans.
- **A RETURN TO GLORY**  
Relive the golden days of 16-bit Madden gameplay style in Madden Classic mode.
- **A GAME WITHIN A GAME**  
Run or defend an improved Two Minute Drill game mode, now featuring Head To Head Challenge.
- **BANG-BOOM-POW!**  
Perfect the X's and O's with the help of John Madden in Training mode.
- **NO MORE PULLING THE PLUG**  
Repeat any unwanted play with the new "mulligan" do-over feature.

1-2 Players

MEMORY CARD 1-9 Blocks

Multi Tap Adaptable 1-8 Players

Analog Control Compatible

Vibration Function Compatible

PLAYERS™ [www.allmadden.com](http://www.allmadden.com)

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MADDEN NFL 2002

NTSC U/C





PlayStation 2

NTSC U/C

## THE BEST GETS BETTER

### FEATURES

- FOOTBALL'S BEST COMMENTARY**  
 Legendary play-by-play announcer Al Michaels and Melissa Stark join John Madden to complete football's premier audio team.
- THE NEW-LOOK NFL**  
 All 32 NFL™ teams, including the new Houston Texans, take the field playing in their new, re-aligned divisions.
- THE SOUNDS OF THE GAME**  
 Up-to-the-minute stat commentary, on-field player banter, and improved crowd reactions keep the audio realistic and fresh from game to game.
- GET MORE OUT OF YOUR GAME**  
 Unlock teams, stadiums, and bonus features with new-look Madden Cards and updated Madden Challenge Tasks.
- FOOTBALL UNDER PRESSURE**  
 Make your playoff run in Season and Franchise modes, earn bonus points in the Two-Minute Drill, or practice the basics in Exhibition mode.

DOMINATE THE GROUND GAME

ALL 32 NFL TEAMS

CLASSIC MADDEN GAMEPLAY

RETURN TO PRO FOOTBALL FRANCHISE

HARD-HITTING POWER TACKLES

1 or 2 Players

MEMORY CARD  
1-15 Blocks

Analog Control  
Compatible

Vibration Function  
Compatible

Multi Tap Adaptable  
1-8 Players

0 14633 14518 2

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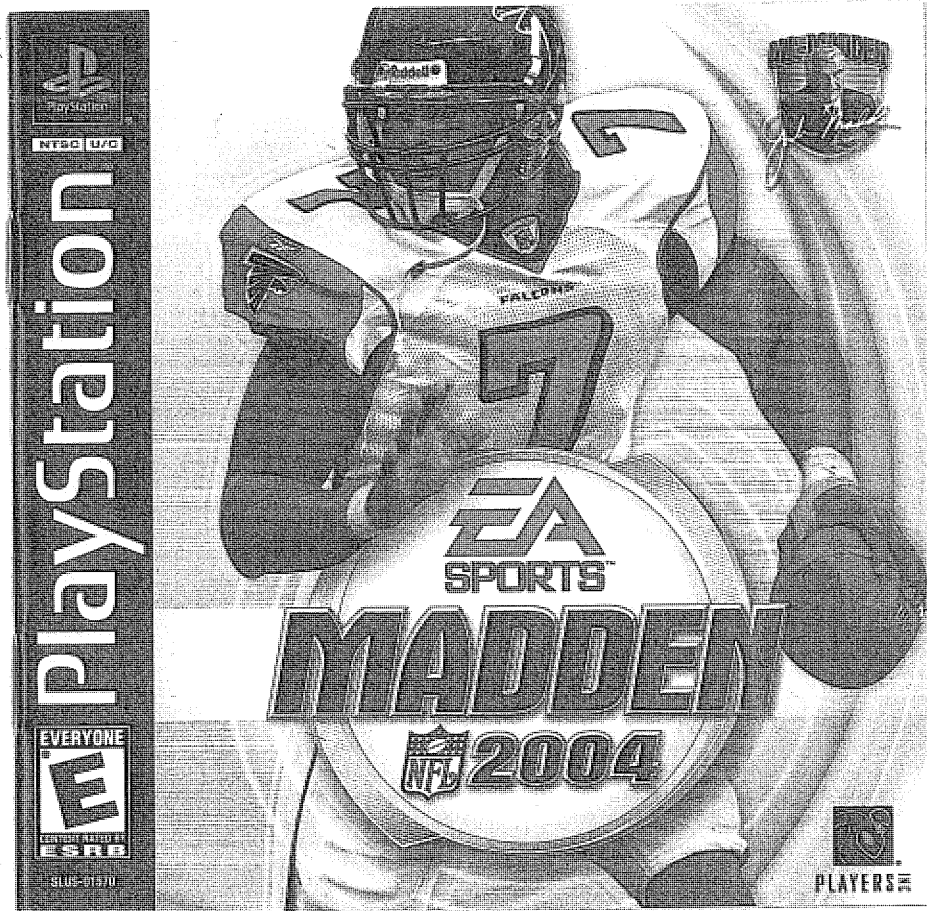
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1-800-771-3772 for Rating information.

\*Based on total franchise sales in 2001 from TRST.

SLUS-01482

MADDEN NFL™ 2003





PlayStation

NTSC U/C

## PLAYMAKERS WIN CHAMPIONSHIPS

### RUN FOR THE RECORD BOOKS

### ALL THE OFF-SEASON TRADES

### LEGENDARY NFL MATCHUPS

### GET ON THE HORSE TRAILER

### FEATURES

- ▶ **GET ON THE TRAILER**  
Earn game MVP honors as John Madden's Horse Trailer Player of the Game.
- ▶ **BUILD AN NFL FRANCHISE**  
Conduct trades, sign free agents, and run a franchise for 30 seasons to build an NFL dynasty.
- ▶ **RELIVE THE GOLDEN YEARS**  
Go deep with 16-bit gameplay style in Madden Classic mode.
- ▶ **A GAME WITHIN A GAME**  
Run or defend a Two-Minute Drill option featuring Head-to-Head Challenge.
- ▶ **AUTHENTIC NFL STRATEGY**  
Featuring playbooks from all NFL officially licensed Coaches Club Head Coaches.
- ▶ **THE REAL NFL**  
New team logos and player rosters for the 2003-2004 season.

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PRO FOOTBALL  
FRANCHISE

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[www.allmadden.com](http://www.allmadden.com)
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\*Based on total franchise sales in 2002 from TRST.

1 or 2 Players

MEMORY CARD 1-15 Blocks

Analog Control Compatible

Vibration Function Compatible

Multi Tap Adaptable 1-8 Players

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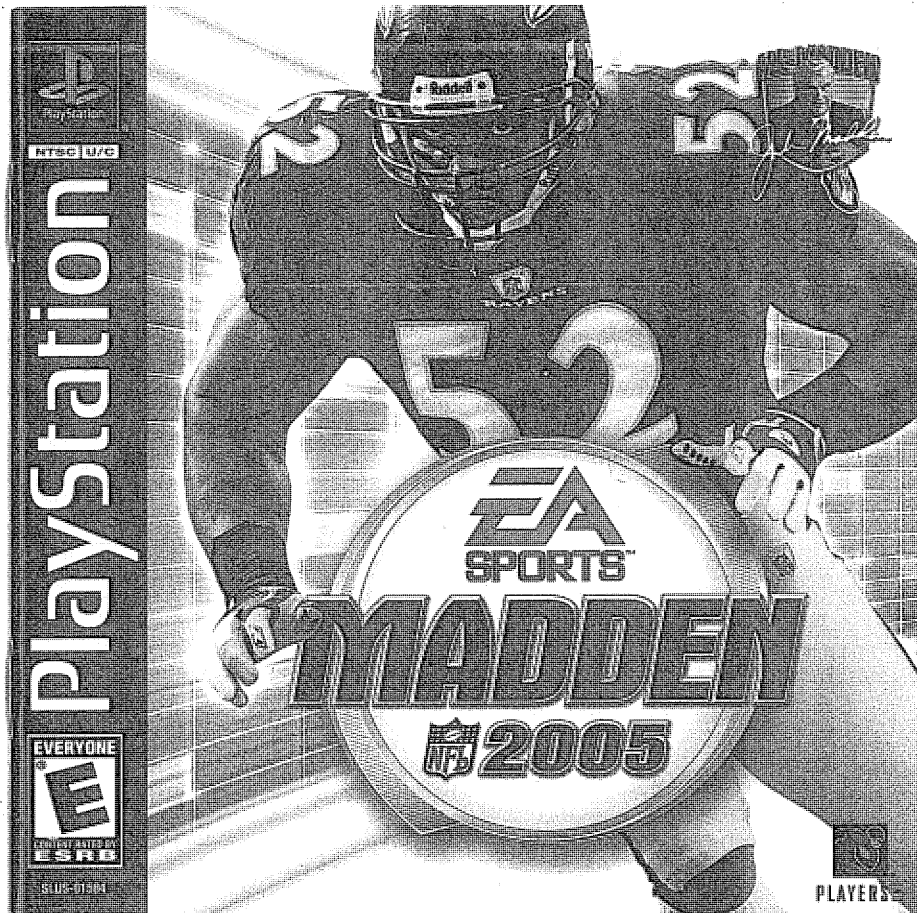
MADDEN NFL™ 2004

MADDEN NFL™ 2004

SLUS-01570

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PlayStation

NTSC U/C

# FEAR THE "D"

Madden NFL 2005

Madden NFL 2005

**UP-TO-DATE NFL ROSTERS**

**REAL NFL PLAYBOOKS**

**FEATURES**

- TAKE THE LEAGUE BY STORM**  
Build a powerhouse NFL franchise from the ground up by conducting trades, signing free agents, and more.
- MASTER THE TWO MINUTE DRILL**  
Time is winding down. Can you handle the pressure in this intense game mode?
- AUTHENTIC NFL PLAYBOOKS**  
Develop an unstoppable gameplan by using the playbooks from all the licensed NFL Coaches Club Head Coaches.
- EARN YOUR PLACE ON THE TRAILER**  
Play well and you might be named John Madden's Horse Trailer Player of the Game.
- THE TRUE NFL EXPERIENCE**  
Featuring current uniforms and team rosters reflecting off-season personnel moves.

**ALL THE NEW UNIFORMS**

**FULL FRANCHISE MODE**

1 or 2 Players

MEMORY CARD 1-15 Blocks

Analog Control Compatible

Vibration Function Compatible

Multi Tap Adaptable 1-8 Players

**EVERYONE**  
Visit [www.esrb.org](http://www.esrb.org) for more ratings information.  
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# EXHIBIT 2



PlayStation®2



PlayStation 2



# MADDEN 2001

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GAME THAT MATTERS**

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Accurate player sizes and accessories  
down to eye black and turf tape

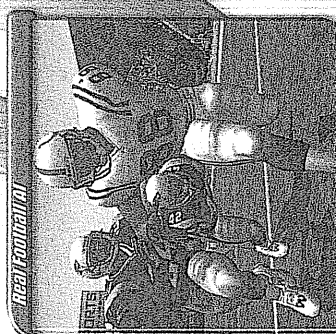
**>REAL NFL EMOTION**  
Authentic facial expressions—see the intensity in a blitzing linebacker's eyes

**>REAL NFL MOVES**  
Physics-based animations calculated from speed, mass, and hit location



**>REAL NFL COACHES**  
With signature playbooks and play styles, coaches work the sidelines—and the officials

**>OLD-SCHOOL TEAMS AND PLAYERS**  
Over 200 of the NFL's greatest players and old-school teams with throwback uniforms

**>MADDEN CARDS**  
Win, trade and risk in-game Madden Cards to unlock hidden players, stadiums, and power-ups

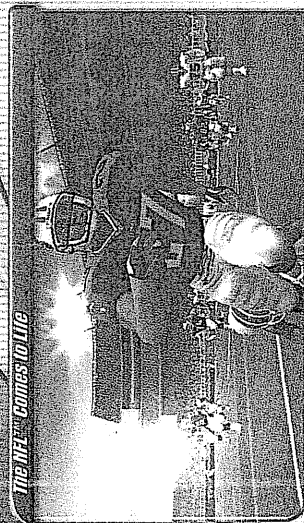


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**SURROUND**

Visit [www.esrb.org](http://www.esrb.org) or call 1-800-771-3772 for Rating information.



1-2 Players  
Memory Card (for PS2) - 143 KB  
Digital Control  
Analog Control

**Vibration Function** **Touch Sensitive** **Mullab (for PS2) - 8 Players**

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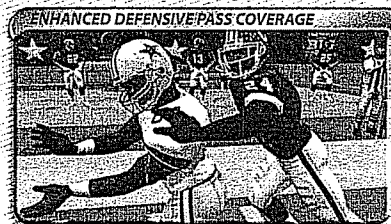
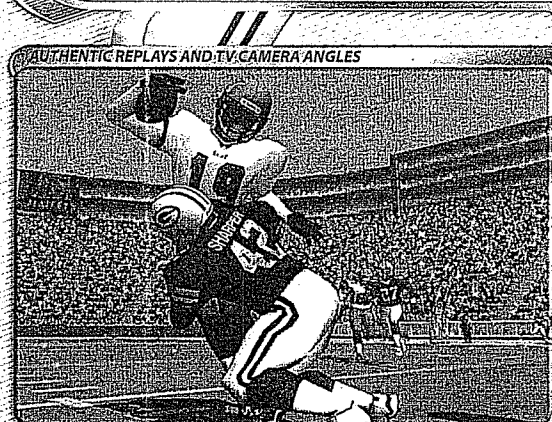
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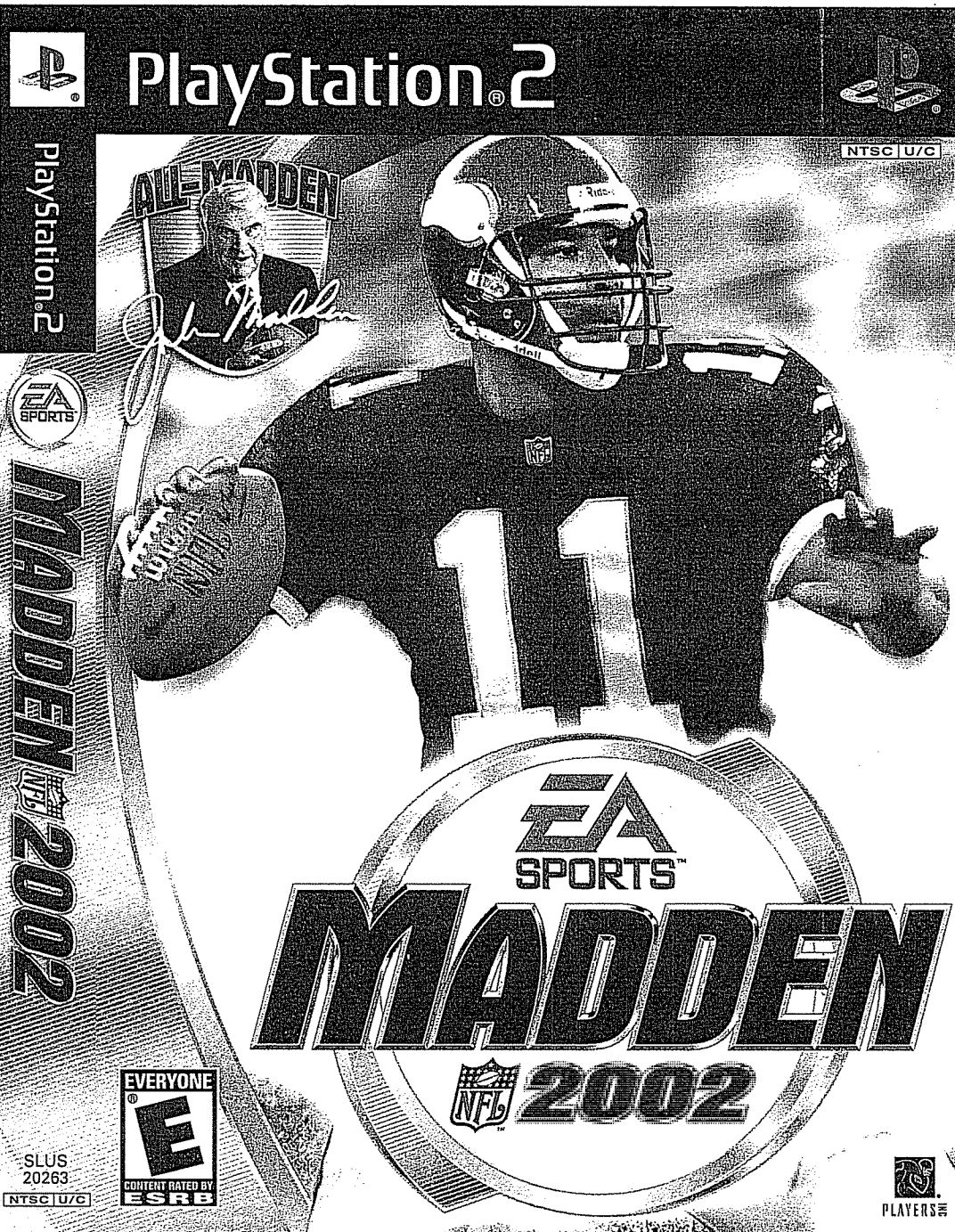
1-2 Players Memory Card (for PS2) 1461 KB Analog Control

### FEATURES

- **KICK OFF THE SEASON WITH THE NEWEST NFL™ FRANCHISE**  
Take the field with all 32 NFL teams including the expansion Houston Texans.
- **FOOTBALL IN YOUR FACE**  
New player faces and on-field animations bring you closer to the drama and inside the huddle.
- **A GAME WITHIN A GAME**  
Run the Two Minute Drill and earn points in this quick-hitting, fast-paced new game mode.
- **IT'S YOUR GAME, IT'S YOUR LEAGUE**  
Create a custom league and start your own rivalries.
- **BANG-BOOM-POW!**  
Perfect the X's and O's with the help of John Madden in the new Training mode.



Vibration Function Multitap (for PS2) 1-8 Players [www.allmadden.com](http://www.allmadden.com)  
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PLAYERS





# THE BEST GETS BETTER

## FEATURES

### • TAKE YOUR GAME ONLINE\*\*

Access an online community where you can meet, chat, download rosters, and play against Madden gamers across the country.

**• FOOTBALL'S BEST COMMENTARY**  
Legendary play-by-play announcer Al Michaels and Melissa Stark join John Madden to complete football's best audio team.

### • NEW MINI-CAMP MODE

Tour NFL cities in the Madden Cruiser and compete in mini-games for unique Madden Cards.

### • NEW CREATE-A-PLAYBOOK

Create your own offensive and defensive plays, formations, and receiver routes as you build your team's playbook from scratch.

**• DEEPEST FRANCHISE MODE EVER**  
30 years of career stats and player progression logic. Draft players with tips from your scouting staff and export your franchise team to all game modes.

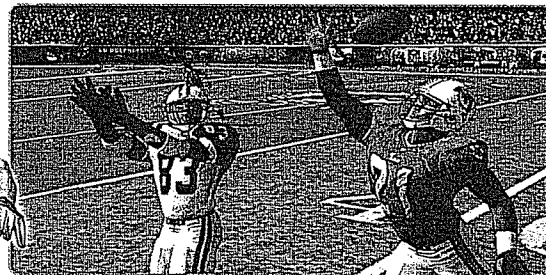
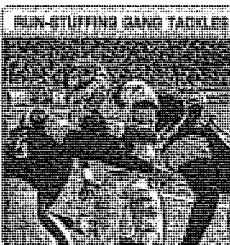
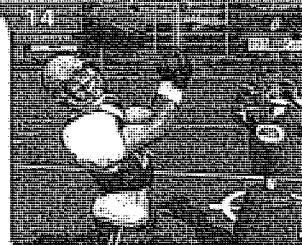
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Features 11 hot music releases from Andrew W. K., Nappy Roots feat. Marcos from P.O.D., (hed)p.e., Quarashi, Good Charlotte, Bon Jovi, and many more.



MINI-CAMP QB SWAT BALL CHILL

NEW STIFF-ARM MOVES



ALL-NEW CATCHES

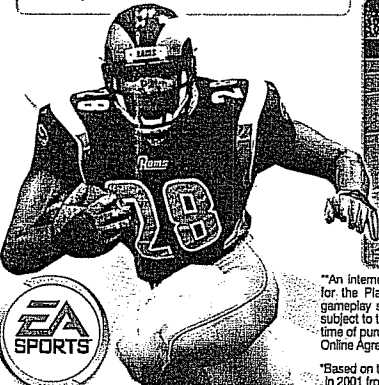
\*An internet connection, a network adaptor and memory card for the PlayStation®2 are required for online gameplay. Online gameplay server will be available only through August 31, 2003. Use subject to the Online Agreement. All features may not be available at the time of purchase. Please check the online feature in game and the Online Agreement for more information.

\*\*Based on total franchise sales in 2001 from TRST.

www.madden2003.com  
www.allmadden.com



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**EVERYONE**  
Visit [www.esrb.org](http://www.esrb.org) or call  
1-800-771-3772 for Rating Information.



0 14633 14515 1



# PlayStation®2

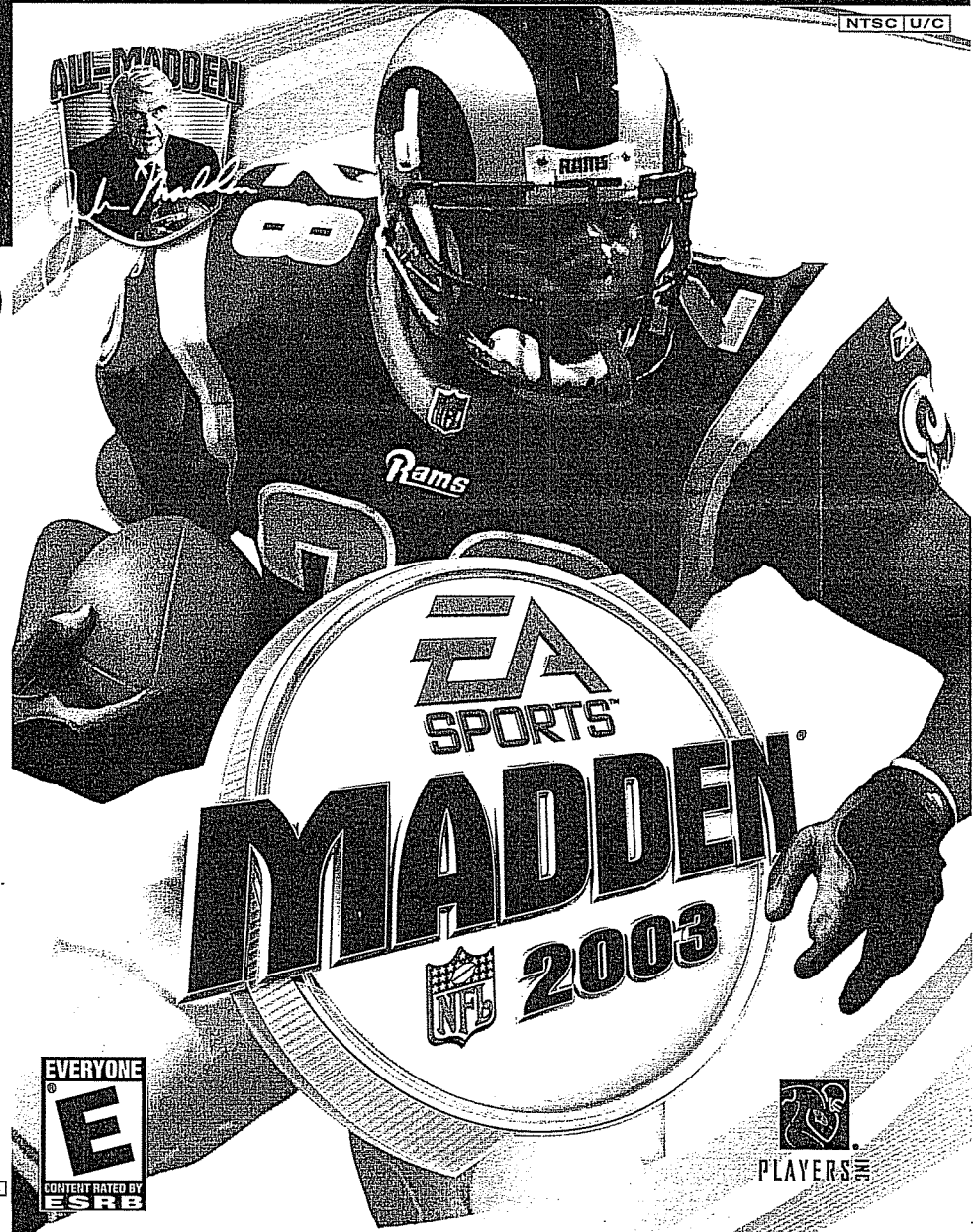


NTSC U/C

PlayStation®2



MADDEN NFL 2003



SLUS  
20529  
NTSC U/C

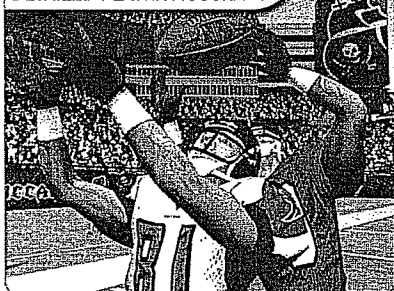




# PLAYMAKERS WIN CHAMPIONSHIPS



## DETAILED PLAYER ACCURACY



## DOWNLOAD UPDATED PLAYER RATINGS



## NEW PLAYMAKER CONTROL



## HUNDREDS OF NEW ANIMATIONS



## FEATURES

- ▶ **NEW PLAYMAKER CONTROL**  
Revolutionary new feature allows you to control players off the ball. Change receiver routes pre-snap and mid-play, direct blocking downfield during a run, and more.
- ▶ **ENHANCED EA SPORTS™ ONLINE\*\***  
Compete in a quick match-up or all-new Online Tournament games, and chat in-game with EA SPORTS™ Talk™. New EA SPORTS™ Fair Play settings reduce online cheating and only reward players who complete full games.
- ▶ **NEW OWNER MODE**  
Hire staff, set ticket and concession prices, and build your stadium with luxury boxes, scoreboards, and more. Keep score by tracking your team's revenue and fan support.
- ▶ **NEW INTEGRATED PLAYCALLING PRESENTATION**  
Speed up the pace of the game without missing any of the on-field action. An all-new interface allows you to call plays while watching in-game replays, celebrations, and reactions.
- ▶ **THE MOST REALISTIC PLAYBOOKS**  
Featuring playbooks from all officially licensed NFL Coaches Club Head Coaches and licensed Assistant Coaches.
- ▶ **NEW EA SPORTS™ BIO†**  
Track your accomplishments in Madden NFL™ 2004 and unlock special rewards by playing multiple EA SPORTS™ games like NCAA® Football 2004, NBA LIVE 2004, and Tiger Woods PGA TOUR® 2004.

\*\*\*USB headset and broadband connection required. † Memory Card required.

**EVERYONE**  
Visit [www.esrb.org](http://www.esrb.org) or call 1-800-771-3772 for Rating Information.  
Game Experience May Change During Online Play

AN INTERNET CONNECTION, A NETWORK ADAPTOR AND MEMORY CARD FOR THE PLAYSTATION 2 ARE REQUIRED FOR ONLINE GAMEPLAY.

[www.allmadden.com](http://www.allmadden.com)  
[www.madden2004.com](http://www.madden2004.com)



1-2 Players | Memory Card (for PS2) - 1508 KB | Analog Control |  
Vibration Function | Pressure Sensitive | Multitap (for PS2) 1-8 Players |  
Online: Ethernet Broadband or Analog Modem required | AOL Dial-Up Compatible |  
Network Adaptor (PS2) - 2 Players |

\*IMPORTANT INFORMATION ON THE EA SPORTS™ ONLINE SERVICE, INCLUDING AVAILABILITY FOR PLAY, TERMS AND CONDITIONS, AND MEMBERSHIP INFORMATION CAN BE FOUND AT <http://www.easports.com/ps2legal>

EA SPORTS Online is a live game service that you play via the Internet, allowing you to play with thousands of other sports fans. AN INTERNET CONNECTION, NETWORK ADAPTOR AND MEMORY CARD FOR THE PLAYSTATION 2 ARE REQUIRED TO PLAY. Internet service providers usually charge a monthly fee to provide this access.

YOU MUST BE 13+ TO REGISTER FOR THE EA SPORTS ONLINE SERVICE. EA SPORTS ONLINE SERVICE IS AVAILABLE IN NORTH AMERICA ONLY.

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\*Based on total franchise sales in 2002 from T100.



# PlayStation 2

PlayStation 2

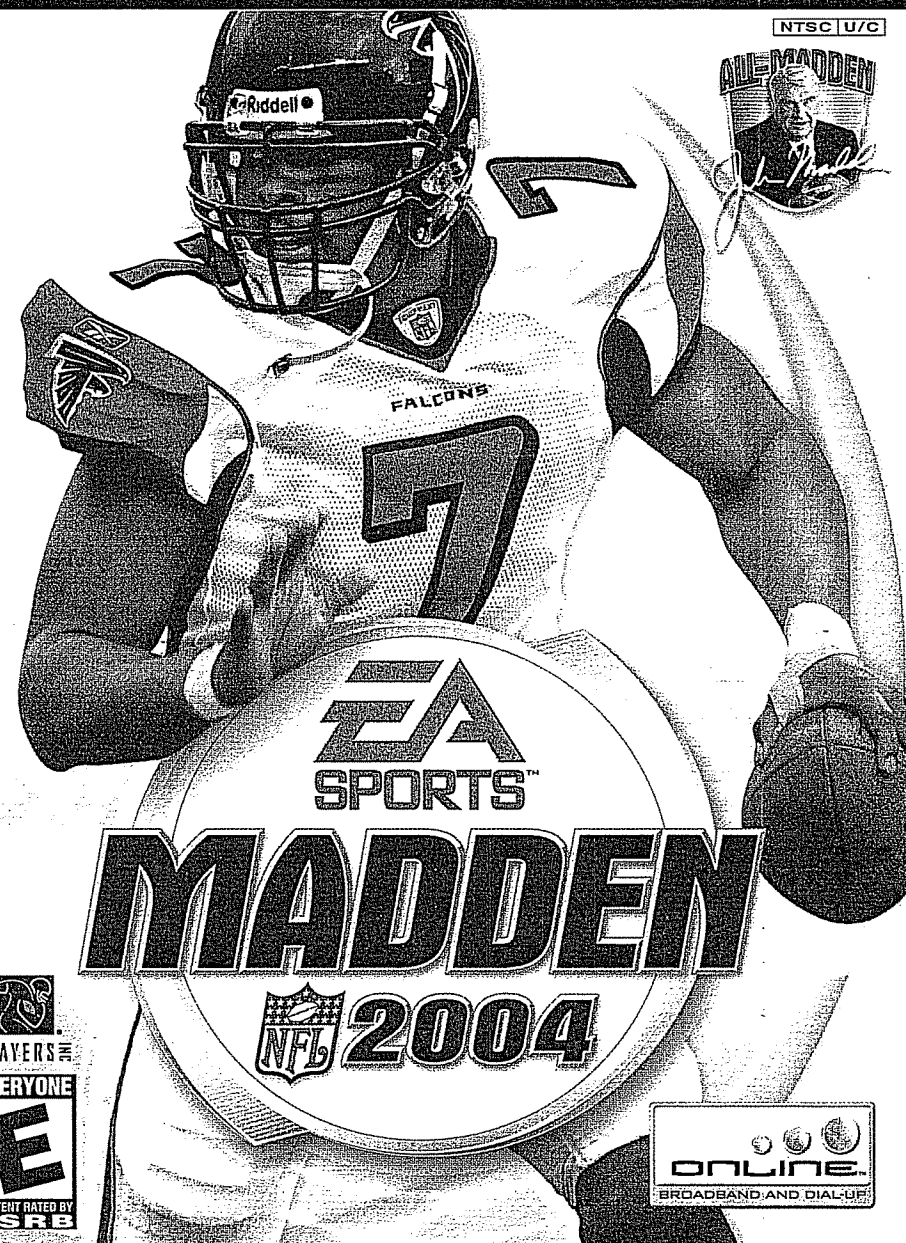


MADDEN NFL 2004

SLUS  
20752  
NTSC U/C



EVERYONE  
E  
CONTENT RATED BY  
ESRB



online  
BROADBAND AND DIAL-UP

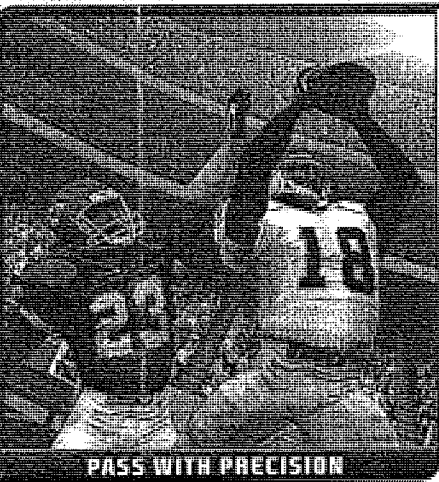




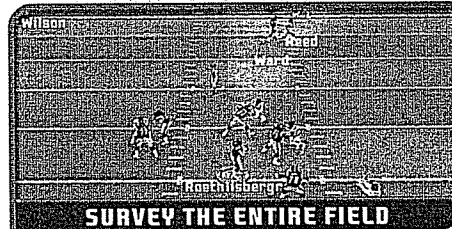




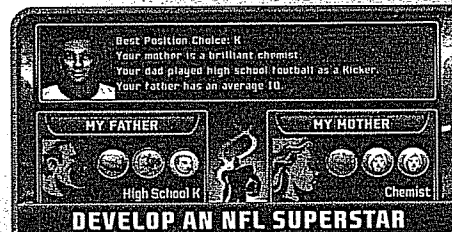
# YEAR OF THE QUARTERBACK



PASS WITH PRECISION



SURVEY THE ENTIRE FIELD



DEVELOP AN NFL SUPERSTAR

## FEATURES

### ALL-NEW QB VISION CONTROL

Look off defenders, find open receivers, and make huge plays within your quarterback's unique field of vision—each QB sees the field differently based on his attributes.

### NEW QB PRECISION PLACEMENT

High or low, inside or outside shoulder—control each pass by picking a spot and throwing away from defenders.

### ALL-NEW TRUCK STICK CONTROL

Break tackles and pancake defenders to clear your path to the end zone.

### NFL SUPERSTAR MODE

Experience the game in a whole new way by creating an NFL prospect and turning him into a Superstar on and off the field, complete with an agent, endorsements, and more.

### NEW GRAPHICS PRESENTATION

New camera angles, improved graphics, and new commentary and cut scenes.

### ENHANCED ONLINE\*\* EXPERIENCE

Use the all-new EA Locker to share files and play Franchise mode games with friends online.



www.madden06.com

www.allmadden.com

1-2 Players | Memory Card (for PS2) - 1368 KB | Analog Control

Vibration Function | Pressure Sensitive | Multitap (for PS2) 1-8 Players | Logitech/PS2 USB Headsets

Online: Ethernet Broadband or Analog Modem required | AOL Dial-Up Compatible | Network Adaptor (PS2) required - 2 Players

AN INTERNET CONNECTION, A NETWORK ADAPTOR AND MEMORY CARD FOR THE PLAYSTATION®2 ARE REQUIRED FOR ONLINE GAMEPLAY.

\*\*REGISTRATION AND SUBSCRIPTION REQUIRED TO ACCESS ONLINE FEATURES.

TERMS & CONDITIONS, SUBSCRIPTION FEES AND FEATURE UPDATES ARE FOUND AT [www.easports.com](http://www.easports.com).

YOU MUST BE 13+ TO REGISTER ONLINE. EA MAY RETIRE ONLINE FEATURES AFTER 30 DAYS NOTICE.

POSTED ON [www.easports.com](http://www.easports.com) OR 30 DAYS AFTER THE LAST DAY OF THE 2005-2006 NFL SEASON.

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0 14633 14938 8



\*Based on total franchise sales in 2004 according to the NFL Group, Inc.

EVERYONE



Includes demos of games rated "RP-E" by the ESRB.  
ESRB CONTENT RATING: www.esrb.org  
Game experience may change during online play.



SLUS  
21213

NTSC U/C



PlayStation 2

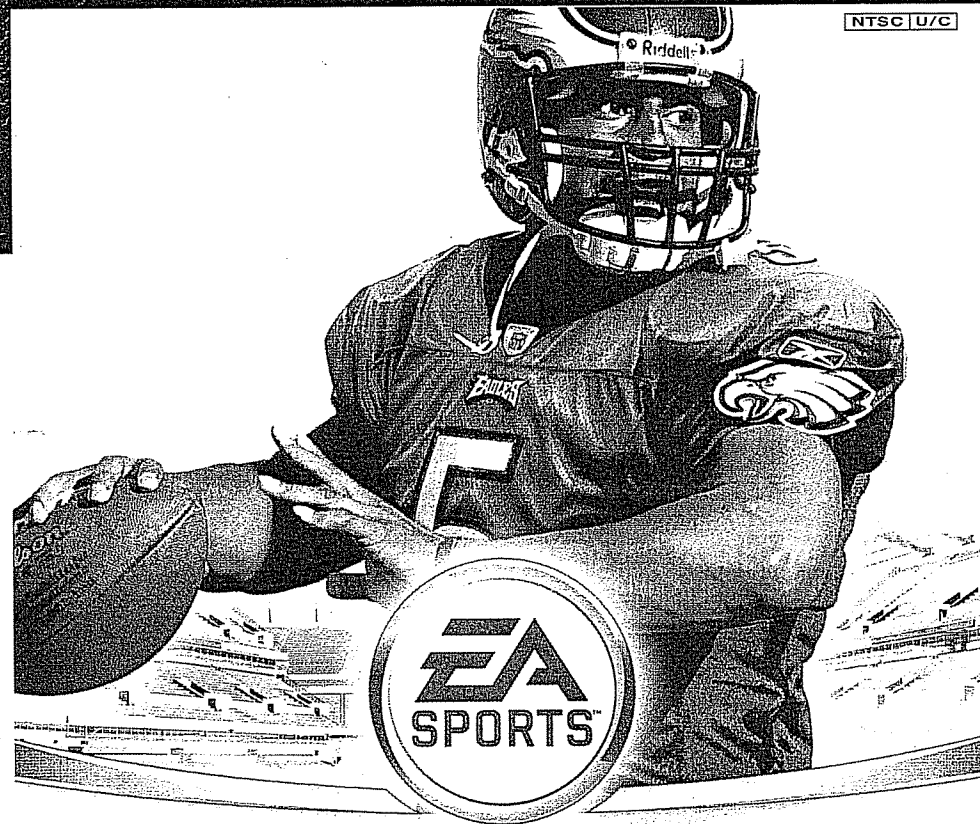


MADDEN NFL 06

# PlayStation 2



NTSC U/C



# MADDEN NFL 06



CONTENT RATED BY ESRB



EXCLUSIVE NFL LICENSE





# RUN TO DAYLIGHT

**#1**  
SELLING PRO FOOTBALL FRANCHISE

## FEATURES

- ALL-NEW LEAD BLOCKER CONTROLS**  
For the first time ever, throw the perfect block to create a hole, then switch control to the tailback to rip off a big gain.
- NFL SUPERSTAR: HALL OF FAME MODE**  
Play your way into the Pro Football Hall of Fame and experience the game from any position on the field. Become a superstar on and off the field.
- MASTER NEW HIGHLIGHT STICK MOVES**  
Use the all-new Highlight Stick to slide or bowl over defenders with new jukes, cutbacks, and power moves.
- DEEPEST FRANCHISE MODE EVER**  
Use the NFL Draft Scouting System and College All-Star Game to evaluate prospects, or determine impact players with Franchise Player Roles.
- AUTHENTIC NFL DEFENSIVE PLAYBOOKS**  
Shut down your opponent's offense by using real Defensive Playbooks from all 32 NFL teams.

**LEAD BLOCK TO OPEN THE LANES**

**BE AN NFL SUPERSTAR**

[madden07.com](http://madden07.com) [allmadden.com](http://allmadden.com)

1-2 Players | Memory Card (16GB - 143GB) | Analog Control | Wireless Function | Wireless Headset | Add-on for PS2: 1-4 Players

Online Ethernet Headset or Analog Headset required | Advanced Adapter (2nd) 2 Players | Logitech F320 USB Headset

**REGISTRATION AND SUBSCRIPTION REQUIRED TO ACCESS ONLINE FEATURES.** **TERMS & CONDITIONS, SUBSCRIPTION FEES AND FEATURE UPDATES ARE FOUND AT [www.esrb.com](http://www.esrb.com). M07 MUST BE 13+ TO REGISTER ONLINE.**

Included Logitech® USB Audio Technology

Online features require access to internet, broadband and in-game.

PlayStation 2: 200GB Hard Drive Required. Xbox 360: 20GB Hard Drive Required. PC: 20GB Hard Drive Required.

EA MAY REMOVE ONLINE FEATURES WITHIN 30 DAYS OF THE RELEASE DATE. IF YOU ARE A MEMBER OF THE EA GAMES PROGRAM, YOU WILL BE NOTIFIED BY EMAIL. IF YOU ARE NOT A MEMBER, YOU WILL BE NOTIFIED BY EMAIL. IF YOU ARE A MEMBER OF THE EA GAMES PROGRAM, YOU WILL BE NOTIFIED BY EMAIL. IF YOU ARE NOT A MEMBER, YOU WILL BE NOTIFIED BY EMAIL.

**EVERYONE**  
**E**  
Visit [www.ea.com](http://www.ea.com) for updated rating information.

Game experience may change during online play.

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# PlayStation 2

# MADDEN NFL 07

**EVERYONE**  
**E**  
Visit [www.ea.com](http://www.ea.com) for updated rating information.

SLUS 21476

**ONLINE**  
BROADCASTS AND CHAT

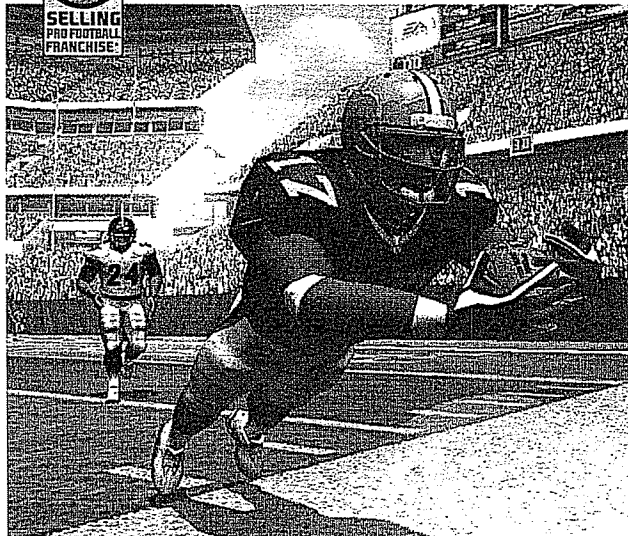






# #1 LEVEL THE PLAYING FIELD

## SELLING PRO FOOTBALL FRANCHISE:



## KEY FEATURES

► MOST AUTHENTIC GAMEPLAY EVER

Pull off new combo moves by stringing together multiple actions in succession, direct receivers' routes when scrambling out of the pocket, and avoid pressure with the all-new QB Avoidance Stick to take charge of the game like never before.

► **FUN, ACCESSIBLE GAMEPLAY**

With an all-new playcalling system featuring simplified one-button controls and assisted player movements, now rookies can learn to dominate like an All-Pro.

## ► ALL-NEW FRANCHISE SCORING

Earn points for winning games, developing players, increasing attendance, and more. Then, see how your score stacks up as you track your progress with the all-new Decade Scoring system.

► ALL-NEW SUPERSIM

Take full control over the pace of a game by simulating a single play, a quarter, or an entire game. Take the field or take plays off, it's entirely up to you.

## ► EARN YOUR SPOT

Use points earned in practice to improve your skills and overtake players ahead of you on the depth chart. Once a starter, do whatever it takes to reach key incentives written in your contract.

### ► ENHANCED FANTASY CHALLENGE

Three new league champions with unique special abilities have joined the fray with one goal in mind: knocking you from your championship run.



Playstation®2

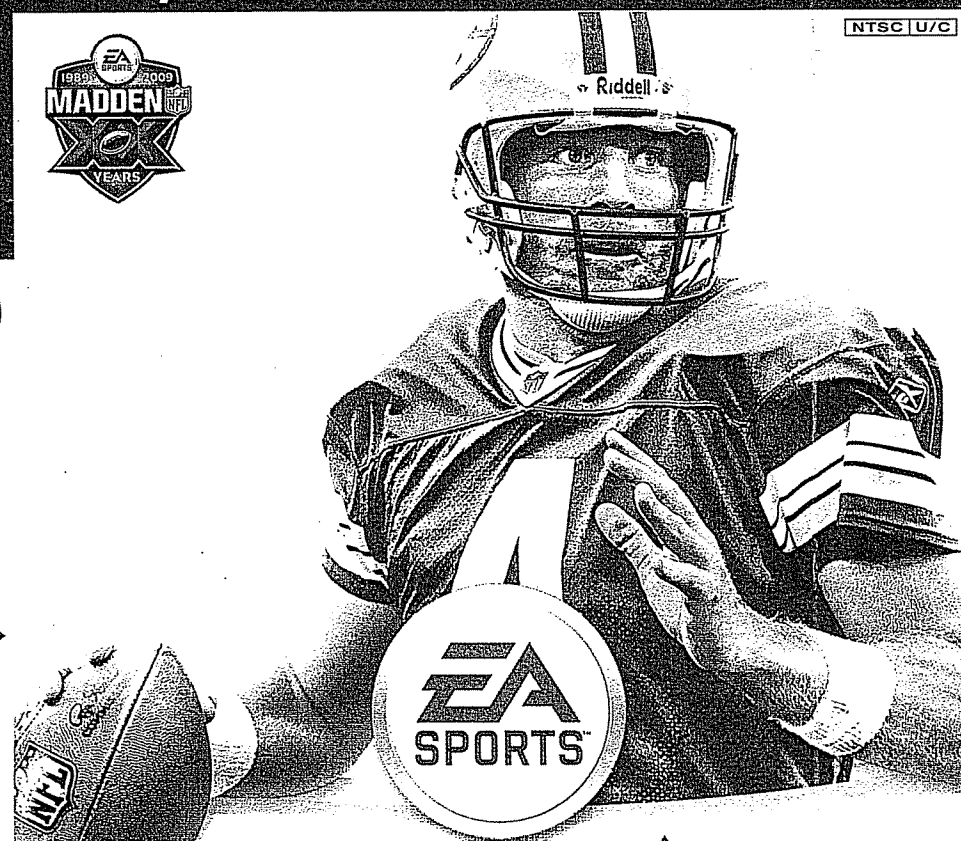


# SO WHAT?

# PlayStation®2



|      |     |
|------|-----|
| NTSC | U/C |
|------|-----|



# MADDEN NFL 09

Madden NFL 2009 <P52>  
939775 022510EMA

**EVERYONE**  
**E**  
**CONTENT RATED BY**  
**ESRB**



**ONLINE**  
BROADBAND ONLY



**NFL PLAYERS**

1-2: Bureau; Monrovia Field Office; 1-2: Bureau; Aviation Council; Missionary Foundation; Emergency Committee; All others are 1-2: Bureau.

[Online Channel Transfers \(required\)](#)
[Blackboard Academic Transfer \(required\) - 2 Placements](#)
[Log In/Blackboard](#)

**IMPORTANT: REQUIREMENTS TO ACCESS ONLINE TEACHING, EA ONLINE TEACHING & COMMUNITY AND PRACTICE LEARNING ARE PENDING 25 JANUARY 2020.**

**1. STUDENT ID NO. - TO REGISTER WITH AN ONLINE COURSE, A STUDENT NUMBER ONLINE TEACHING APPLICANT TO HAVE ACCESS TO ALL ONLINE TEACHING, PRACTICE LEARNING AND COMMUNITY AND PRACTICE LEARNING ARE PENDING 25 JANUARY 2020.**

[illegible]

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**⚠ WARNING: IF YOU HAVE A HISTORY OF EPILEPSY OR SEIZURES, CONSULT A DOCTOR BEFORE USE. CERTAIN PATTERNS MAY TRIGGER SEIZURES WITH NO PRIOR HISTORY. BEFORE LONG AND FERRARIS DESIGN IS NOT RESPONSIBLE FOR THE INCIDENT.**

**EVERYONE**  
Visit [www.esrb.org](http://www.esrb.org)  
for rating information.

**ESRB RATING SYSTEM** [www.esrb.org](http://www.esrb.org)

Online Interactions  
Not Rated by the ESRB.

# Pre-owned



# EXHIBIT 3



# THE BIGGEST SPORTS GAME OF ALL TIME

Comes to the PSP™ Handheld Entertainment System



## FEATURES

**SYNC UP WITH YOUR PLAYSTATION®2**  
Transfer games from your PlayStation®2 Franchise mode and play them on the go.

**WIRELESS NETWORK GAMING**  
Compete head-to-head via local wireless or against anyone, anywhere over the Internet.

**ENHANCED ONLINE\*\* EXPERIENCE**  
Use the all-new EA Locker feature to exchange files including rosters and profiles with your friends.

**EXCLUSIVE CONTENT**  
Hone your skills in 18 mini games, including 10 PSP™ portable exclusives.

**BUILD A FRANCHISE**  
From dominating on the field to calling the shots off it, control every aspect of a franchise.

**EXCLUSIVE ASSISTANT COACH MODE**  
Progress your practice squad players and sign them when they are ready.



UMD™  
UNIVERSAL MEDIA DISC

www.madden06.com www.allmadden.com

1-4 Players Memory Stick Duo™ 4000KB Wi-Fi Compatible (Ad Hoc/Infrastructure)

Internet connection may be required for certain Wi-Fi functionality.  
Player responsible for Wi-Fi fees.

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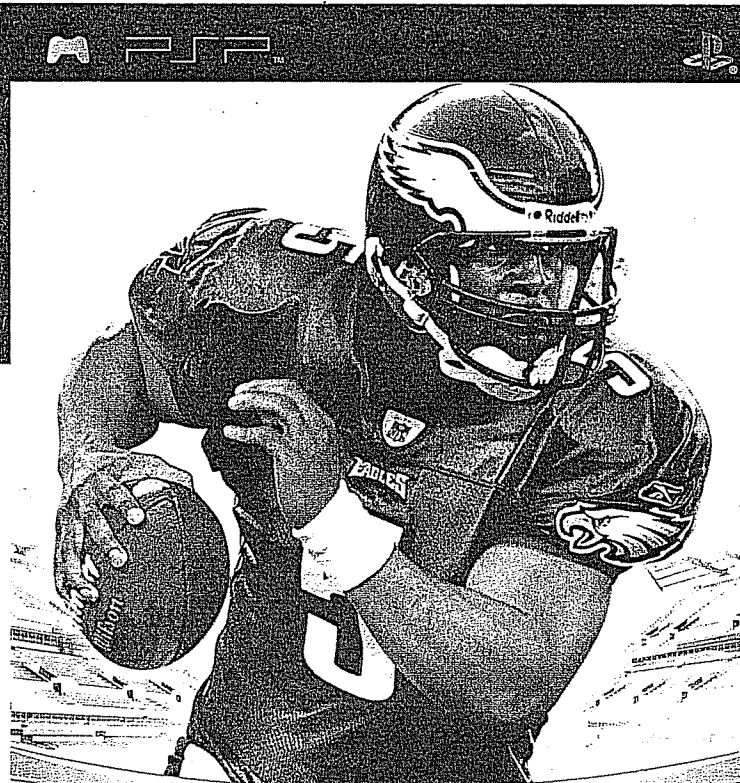
**EVERYONE**  
Visit [www.esrb.org](http://www.esrb.org) for updated rating information.  
ESRB CONTENT RATING™: [www.esrb.org](http://www.esrb.org)  
Game Experience May Change During Wireless Play.



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10024

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MADDEN NFL 06



MADDEN NFL 06

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